

U.S. Environmental Protection Agency
Office of Acquisition Management

Competition Advocacy Program

**Protecting Human Health & Safeguarding the Natural Environment
Through Innovative Solutions Realized From Creative and Competitive Contracting
Methodologies**

**Fiscal Year 2015
Agency Advocate for Competition (AAC) Report**

EXECUTIVE SUMMARY

The Agency's Advocate for Competition (AAC) is pleased to present this "state of competition" assessment of practices, achievements and future plans to continue increasing competition on the EPA's procurement opportunities. The EPA is committed to promoting competition on all new, current, and follow-on procurement opportunities as demonstrated by our high rate of competitive dollars in Fiscal Year (FY) 2015. In the Federal Procurement Data System-Next Generation (FPDS-NG) report dated March 29, 2016, the EPA awarded 83% of all dollars competitively in FY 2015, slightly down from FY 2014 (85%), equivalent to FY 2013 (83%), and higher than FY 2012 (79%) and FY 2011 (77%). It should be noted that the EPA was recognized in FY 2008 by the Office of Federal Procurement Policy (OFPP) as having some of the most effective practices for enhancing competition in the Federal Government. The EPA continues to utilize these practices each year to continue to increase competition on new, current, and follow-on procurement opportunities and strives to always look for ways to improve its competitive record.

The EPA's success regarding competition is largely attributable to our aggressive advanced acquisition planning efforts, implementing creative acquisition processes that expand competition, ensuring clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's Acquisition Forecast Database. During FY 2014, the Balance Scorecard Initiative (BSC) entitled Streamlining the posting requirement for Justifications for Full and Open Competition, Limited Source Justifications, and Brand Name Justifications was implemented. During FY 2012, the EPA also implemented many successful strategies for increasing competition, which were the result of the BSC Initiatives which we continued to utilize during FY 2013, FY 2014, and FY 2015. These Initiatives included: the implementation of the Contract Management Assessment Program, the establishment of the Vendor Communication Plan, Contract Performance Metrics, and the FPDS-NG Data Quality Program, to improve the Environmental Protection Agency's Acquisition System (EAS)/FPDS Validation Process.

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INTRODUCTION

The Agency Advocate for Competition (AAC) ensures that increasing competition remains a top priority within the EPA's Office of Acquisition Management, and all of the EPA buying activities in Washington, D.C., Cincinnati, Ohio, Research Triangle Park, North Carolina, nine regional procurement offices, and eleven laboratories around the country. The Agency continues to emphasize competition in the acquisition of its requirements, resulting in impressive savings to taxpayers and increasing the pool of, and contract opportunities for, potential contractors. Competition is of the utmost importance in our acquisition system, and this report will demonstrate how the EPA facilitates efficient and effective competitions under its procurements. This report details the role of the Agency Advocate for Competition, the EPA's FY 2015 competition results, and actions underway to strengthen the Competition Advocacy Program at the EPA. In addition, this report contains recommendations for reinforcing the use of competition practices for strengthening the Agency's competitive environment.

ROLE OF THE AGENCY ADVOCATE FOR COMPETITION

The EPA has been successful in conducting full and open competition by ensuring that all personnel involved in the procurement process, from identification of the requirement through final payment on the contract, work as a team to maximize competition. The AAC's primary responsibilities are to:

- Develop, direct, and maintain the competition program to ensure that competition initiatives are incorporated and implemented at all levels.
- Promote the use of and challenge barriers to full and open competition in all acquisitions.
- Identify and report opportunities and actions taken to achieve, and any conditions or actions which unnecessarily restrict the use of full and open competition.
- Ensure that oversight mechanisms are established to provide visibility on any issues or obstacles to obtaining competition.
- Ensure the competition is planned early in the acquisition process to minimize factors inhibiting full and open competition.
- Promote market research to identify competition potential in support of acquisition strategies before the procurement decision is irrevocably made.
- Ensure that acquisition plans maximize competition.
- Review and approve sole source actions exceeding \$650,000 (dollar threshold during FY 2015) and Determinations and Findings for exclusion of certain sources.
- Prepare and submit annual reports describing activities, new initiatives, and recommendations on improving competition.

- Serve as the EPA spokesperson for competition to industry, other Government agencies, and the EPA Program Offices.

AUTHORITIES/REQUIREMENTS FOR LIMITING COMPETITION

The Federal Acquisition Regulation (FAR) provides four distinct methods for limiting competition. First, FAR Subpart 6.3 – Other Than Full and Open Competition, provides the policies and procedures, and identifies the statutory authorities for contracting without providing for full and open competition. Second, FAR Subpart 8.405-6 – Limited Sources Justification and Approval, provides that orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when; only one source is capable of responding due to the unique or specialized nature of the work; the new work is a logical follow-on; or when an urgent and compelling need exist. Third, FAR Subpart 13.501 – Special documentation requirements, allows sole source (including brand name) acquisitions for certain commercial items. Fourth, FAR Subpart 16.505(b)(2)(i) – Exceptions to Fair Opportunity under Multiple Award Contracts, provides six statutory exceptions to the requirement that every awardee under a Multiple Award Contract is to be given fair opportunity to be considered for all delivery-orders or task-orders exceeding \$3,000. The six statutory exceptions to Fair Opportunity under a multiple award contract includes; urgency; only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized; in the interest of economy and efficiency because it is a logical follow-on; to satisfy a minimum guarantee; a statute expressly authorizes or requires that the purchase be made from a specified source, or in accordance with Section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in Part 19 apply. For the purpose of this report, these four methods for limiting competition will be uniformly referred to as sole-source actions. It is also worthy to note that there are some noncompetitive awards that require no further justification (e.g., awards to an 8(a) firm, public utility, or a source authorized or required by statute) and these actions are not included or addressed in this report.

The sole source actions that are submitted for the approval of the AAC are usually limited to those instances where, for example, the Agency had no other choice but to award on a noncompetitive basis if scientific objectives and Congressional mandates were necessary, when the public health and welfare were at stake, or when time was of the essence to alleviate an immediate danger. The EPA is an agency that is required to protect human health and the environment in the case of a terrorist attack or national emergency, and has issued class justifications to be prepared for these situations. These sole source vehicles are only to be utilized in rare circumstances when competition is not possible due to emergency health and environmental threats. With the availability of a document which can be invoked in a qualifying emergency, the EPA will not need to issue a new document at a point where it may be impossible.

The AAC, with the cooperation of the contracting and program office personnel, will take steps to ensure that there are no noncompetitive awards to continue on-going programs delayed due to poor advance planning and monitoring of current contracts.

The EPA will continue to strive to reduce noncompetitive acquisition situations. Under many of its programs, the EPA has significantly broadened the contractor base and provided opportunities for more companies to compete. The EPA's contracting and program office staff continue to work to increase competition and develop additional sources to satisfy the EPA's requirements. In some instances where an incumbent has repeatedly received follow-on contracts, additional sources have been developed by continuing to break out requirements and allowing the incumbent and the prospective contractors to propose on only a single part of the requirement. By taking these actions, the Agency is developing sources and broadening its contractor base.

SPECIFIC AREAS IN WHICH COMPETITION HAS BEEN ENHANCED

The AAC has been referred to as the "Gate Keeper" for ensuring competition by the EPA's Office of Inspector General. The AAC meets with the program office and contracting officer when any sole source action requires the review or approval of the AAC. In these meetings, the AAC asks what steps were taken or options considered prior to determining sole source, including how the program office and the contracting office will remove barriers to competition for future requirements. The contracting and program office staff have learned that they must fully justify any sole source actions and make the case that they are necessary in order for the AAC to consider approval. There was only one sole source actions over \$12.5 million (dollar threshold during FY 2015) which needed the approval of the Senior Procurement Executive (SPE).

Each year, the Director of the Office of Acquisition Management (OAM) and the Director of the Office of Small Business Programs (OSBP) jointly issue the Annual Call Memo, prepared by the AAC, requesting acquisition plans. The Annual Call Memo provides clear instructions and examples of the necessary information to help encourage competition. Also, the Annual Call Memo includes a specific deadline for when new requirements are to be submitted to the procurement offices. Many program offices have found this to be helpful in understanding the acquisition process and importance of meaningful acquisition planning. During Fiscal Year 2012, the AAC recommended in the annual competition report that the Annual Call Memo be issued during the second quarter of the Fiscal Year, instead of the third quarter. As a result, during Fiscal Year 2013, the EPA Acquisition Guide (EPAAG) was revised by the Policy, Training, and Oversight Division (PTOD) to reflect this change. This ongoing practice allows for ample time to conduct the acquisition planning meetings between OAM, OSBP, and the program offices during the third quarter of the fiscal year, and have the information regarding the upcoming procurements input into the Acquisition Forecast Database by the end of the third quarter before the end of the fiscal year workload crunch and well before the October 1 deadline each year.

Historically, OAM sponsored two Contractor Forums annually. The Contractor Forums encouraged competition by bringing the EPA personnel together with small businesses, large businesses, and organizations interested in contracting with the EPA, and orientated prospective

contractors on the goals and objectives of the EPA's program and staff offices. The Contractor Forum gave contractors an avenue in which to talk with the EPA about future opportunities, and for the EPA to provide information on how to do business with the agency. Due to budgetary constraints, OAM has not been able to sponsor a Contractor Forum since November 9, 2011 when the event was held in Region 5, Chicago, IL, with over 200 people in attendance. OAM does provide support to the Office of Small Business Programs (OSBP) with their numerous vendor outreach sessions during each fiscal year. OAM provides volunteers from its staff to take part in One-on-One Counseling Sessions with small businesses, conduct presentations that include information on current opportunities and forecasted opportunities, help OSBP man the EPA Booths at the Government Procurement Conference, etc. These volunteer efforts are coordinated by the AAC. The AAC recommends the OAM staff continues to support OSBP with vendor outreach sessions as this practice provides the small business community with information regarding EPA's current opportunities which leads to increased competition on the identified procurements.

The AAC is happy to report that there are now three available options of reverse auctioning tools.

Several years ago, the previous AAC introduced the EPA staff to and encouraged the use of Fedbid.com (located on the internet at <http://www.fedbid.com>) which is a reverse auction site. Since that time, the use of Fedbid.com has contributed toward increasing competition for various types of products that many program offices thought were only available through limited sources.

- In FY 2015, the EPA's use of Fedbid.com totaled 70 reverse auctions, with an average number of 10 bids per auction, 85% of the awards were made to small businesses, and we experience savings of 4% from the government estimate.
- In FY 2014, the EPA's use of Fedbid.com totaled 100 reverse auctions, with an average number of 8 bids per auction, 89% of the awards were made to small businesses, and we experienced savings of 9% from the government estimate.
- In FY 2013, the EPA's use of Fedbid.com totaled 111 reverse auctions, with an average number of 10 bids per auction, 64% of the awards were made to small businesses, and we experienced savings of 9% from the government estimate.
- In FY 2012, the EPA's use of Fedbid.com totaled 153 reverse auctions, with an average number of 12 bids per auction, 76% of the awards were made to small businesses, and we experienced savings of 6% from the government estimate.
- In FY 2011, the EPA's use of Fedbid.com totaled 145 reverse auctions, with an average number of 9 bids per auction, 58% of the awards going to small businesses, and savings of 8% from the government estimate.
- In FY 2010, the EPA's use of Fedbid.com totaled 104 reverse auctions, with an average number of 9 bids per auction, 43% of the awards going to small businesses, and savings of 3.6% from the government estimate.
- In FY 2009, the EPA's use of Fedbid.com totaled 73 reverse auctions, with an average number of 19 bids per auction, 39% of the awards going to small businesses, and savings of almost 3.2% from the government estimate.

The trend shows that the agency has been increasing the number of bids received and typically increasing the number of competitive awards to small businesses while still obtaining great savings each fiscal year through the use of Fedbid.com.

Prior to FY 2014, Fedbid.com was the only source that had a reverse auctioning tool. However, in FY 2014, the General Services Administration created a reverse auctioning tool. The AAC arranged to have GSA employees present the training to OAM's staff on two separate dates. Most felt that the GSA tool was very user friendly. It was designed to work hand in hand with e-Buy and the buyer's even use their same login and password for this reverse auctioning tool system as they do for e-Buy.

CompuSearch is a private company that developed the Environmental Protection Agency's Acquisition System (EAS) which is the OAM acquisition contract writing system also known as PRISM at other agencies. CompuSearch was in the process of development of a reverse auctioning tool during FY 2014. Their tool became a module of EAS for OAM's staff members use upon the rollout of EAS 7.2 which occurred in FY 2015. The AAC arranged for training which was conducted by CompuSearch trainers for EPA Staff during Fiscal Year 2015.

The AAC recommends the use of reverse auctioning when appropriate and recommends that the necessary training is held to ensure that all OAM staff members are informed of the three available tools and their capabilities. The AAC will work with PTOD to ensure that the training is conducted during FY 2016 now that we have authorization to hire new employees.

The AAC monitors the EPA's dynamic real-time Forecast Database, which is on the Internet at <http://www.epa.gov/oam>. The Forecast Database contains detailed information on current and future procurement opportunities, including the contact person, due dates, statements of work, and other relevant information. The EPA's Forecast Database equips businesses with the information they need to effectively compete for Agency contracts. The Forecast Database has been used as a model by other agencies that are trying to enhance competition and has been recognized by companies interested in doing business with the EPA as an extremely valuable tool. The AAC has promoted aggressive efforts to ensure that the data is current, accurate and complete. The EPA publicizes opportunities up to three years in advance through the use of the Forecast Database on the EPA/OAM internet site. This helps to enhance competition by providing a location for vendors to learn about upcoming requirements well before the procurement process begins. Improvements to the EPA OAM Internet site have provided more user-friendly features and access to more information. These improvements continue to result in fewer telephone calls to contract specialists and contracting officers for information which is now easily assessable and readily available on the Internet. Also, these improvements to the above broaden communications between industry and the Government which enhances the potential for more competition. The EPA Administrator also utilizes the information contained in the Forecast Database when addressing audiences around the country. The AAC recommends that the Agency continues to maintain and utilize the Forecast Database.

COMPETITION DATA

During FY 2011, OFPP established a new Competition Report in FPDS-NG. Although this report derives from the old Competition Report, the significant difference is that the new Competition Report does not record actions as competitive if fair opportunity was not given to the task orders when awarded under Agency Multiple Award Contracts (MAC). Under the previous Competition Report, if the original MAC was awarded competitively, then all resultant task orders were also considered and recorded as competitive. This is not the case with the new report which will be used for all future AAC Reports. During Fiscal Year 2013, EPA implemented a new initiative entitled, “Assess Multiple Award Contracts (MACs) Impact on Competition”. The objective was to determine whether the Agency is following an effective process by clearly communicating its intent to provide fair opportunity to compete each task order, ensure that the technical evaluation criteria was clearly presented, ensure that decisions to award after competition were made properly and properly documented, ensure that the proper exceptions to fair opportunity were being cited, and that the awards were coded correctly in EAS and FPDS-NG. This initiative was started in Fiscal Year 2013; however, work continued on this initiative through Fiscal Year 2014 and 2015. This initiative also inventoried contracts coded as MACs in EAS to ensure they are truly MAC contracts (competing Task Orders) in order to get an accurate rate of competition.

During FY 2014, the AAC and the Policy, Oversight, and Training (PTOD) Division implemented an initiative entitled Streamline posting requirement for Justifications for Full and Open Competition, Limited Source Justifications, and Brand Name Justifications. This initiative resulted in the issuance of a Flash Notice that made two changes to internal posting procedures. The first was that the AAC would no longer review approved justifications prior to posting but would instead conduct audits of posted justifications valued above \$150,000. The second was that individual justifications would no longer be posted on EPA’s internet website. Instead a statement would be listed on the website referring and linking vendors to FedBizOpps (FBO). Consequently, contracting officers no longer were required to initiate two help desk tickets for posting justifications on FBO. After the implementation of EAS 7.2 during FY 2015, EAS transmits it directly to FBO at time of award further streamlining the posting process for the contracting officers. The AAC conducted quarterly audits of these justifications throughout FY 2014 and FY 2015 and will continue this practice into the future. If any justifications are not properly posted, the AAC contacts the appropriate Contracting Officer and the cognizant Division Director (DD) or Regional Acquisition Manager (RAM) to ensure that they are posted as soon as possible and verifies via FBO that it has now been posted.

The EPA implemented many new initiatives/strategies in FY 2012 for ensuring that its data is as accurate as possible. These strategies continued to be utilized in FY 2013, FY 2014, and FY 2015. They include: establishment of competition-related Performance Metrics, the FPDS-NG Data Quality Program, and improving the EAS/FPDS Validation Process. Each of these initiatives focus on ways to improve the agency’s current process. Performance Metrics established the benchmarks and timeframes in which the different contracting standards were to be met and measured. The FPDS-NG Data Quality Program was established to ensure the timely, accurate, and complete collection and reporting of data entered into FPDS-NG. The initiative for

the improvement of the EAS/FPDS Validation Process was established to ensure that the actions being awarded through EAS were being reported accurately in FPDS-NG.

As always, the EPA is committed to ensuring competition in new, current, and follow-on procurement opportunities as demonstrated by its high rate of competitive actions in FY 2015. In the FPDS-NG report dated March 29, 2016, 77% of all actions in FY 2015 were awarded competitively with 83% of all dollars were awarded competitively in FY 2015. The EPA has been recognized in the past by the OFPP as having some of the most effective practices for enhancing competition in the Federal Government, and we strive to increase our record each fiscal year.

ASSESSMENT OF COMPETITION PRACTICES

The Agency continued to enhance competition through the use of innovative procurement techniques. For all procurement opportunities other than small business set-asides, full and open competition was stressed as the most desirable method of acquisition and was pursued aggressively. In assessing the state of competition practices at the EPA for FY 2015, the AAC utilized the format provided by OFPP in its letter dated May 31, 2007. The following details the results of this review based on responses provided from the EPA procurement offices.

A. Ensuring sufficient attention to the manner in which acquisitions are planned

The AAC and the procurement offices have taken numerous actions to ensure that there is sufficient attention being paid to the manner in which acquisitions are planned. It is clear that acquisition planning is one of the best ways to ensure competition. At the EPA during FY 2015, we utilized cross-functional teams in the acquisition planning process, which included the contracting staff, the program office staff, and the OSBP staff. Detailed acquisition forecasting meetings were held with each individual customer to go over the next three year acquisition plans to determine strategies to enhance competition, including small business participation. At these planning meetings, the team discusses how competition will be sought and promoted. These planning meetings set forth strategy and identify and help prevent potential future noncompetitive awards. In most instances, all fiscal year requirements are being reviewed in the third quarter of the previous fiscal year to develop a total contract strategy for a particular technical program. Acquisition forecasts for large requirements consider, as appropriate, the comparative benefits of awarding a new contract versus placing an order under an existing contract by reviewing in-house capabilities and capacity on current contracts.

The EPA employs many market research techniques including publishing formal requests for information, querying government and commercial databases, counseling contractors on doing business with the EPA, holding pre-proposal conferences, and participating in events (such as outreach, matchmaking, etc.) with industry, other acquisition officials, and the program offices. Pre-proposal conferences provide an opportunity for potential offerors to familiarize themselves with the Government's requirement, encourage participation in the procurement, and provide a networking opportunity to establish subcontracting, mentoring, and/or teaming arrangements.

The agency's piloting of the FedConnect feature in FY 2013 and regular use throughout FY 2015 has resulted in advertisement of EPA requirements to a wider pool of contractors thus allowing for increased competition.

Each major acquisition involving a number of separate tasks is reviewed to determine the acquisition method best suited to enhance competition. This includes examining each task and determining whether to separate or combine them, depending on which method is most likely to generate the most competition. During FY 2015, the EPA did not process any actions that met the definition of contract bundling.

The Office of Acquisition Management has been working on a reorganization during FY 2015. This Reorganization of OAM, when implemented, will be based around categories of procurements which should allow for a further increase of analysis of acquisition strategies to more efficiently obtain goods and services for the Agency.

Specific initiatives from some of EPA's procurement offices are as follows:

Cincinnati Procurement Operations Division's (CPOD) Office Of Water Service Center (OWSC) met extensively with the Junior Resource Officers (JRO) and Division Directors to discuss acquisition needs, level of effort (LOE) required, strategic sourcing vehicles available in OAM, and other contracts issues to ensure the acquisition forecast that was developed was truly reflective of the program's needs. The discussions on the acquisitions continued to evolve as CPOD actively embraced the concept of the Acquisition Procurement Plan (APP), and touched base with all relevant members of the Acquisition Procurement Team (APT) to ensure a well-developed acquisition strategy was put in place for each of their pre-award actions. Examples of success stories include expanding the number of awards under a multiple award contract, combining one pre-award with an Agency-wide Office of Research and Development (ORD) contract, and significantly scaling back base LOE to allow for more realistic Independent Government Cost Estimates (IGCEs) and proposals.

Headquarters Procurement Operations Division (HPOD) continues to perform and emphasize collaborative acquisition planning, market research, and sources sought notices, in addition to well-constructed solicitations to elicit the best competition possible through the procurement writing system (EAS) and in conjunction with Fed-Connect. Pre-solicitation conferences are considered more often when additional outreach is required to promote competition. Since HPOD supports requirements that are national in scope, multiple award scenarios will continue to be considered through the FITARA process when re-competing single award contracts. Further, both the HPOD Information Resource Management Procurement Service Center (IRMPSC) and National Procurement Service Center (NFPSC) staff met with the Office of Environmental Information (OEI) on a quarterly basis during FY 2015 as well as the ORD about their acquisition plans. There has also been a standard added to each service center manager's Performance Appraisal and Recognition System (PARS) plan to conduct more outreach and acquisition planning with their customers.

Research Triangle Park Procurement Operations Division (RTPPOD) conducted considerable market research and planning with EPA's National Center for Computation Toxicology (NCCT)

to ensure that the next round of High Throughput Screening technical support contracts have at least two small business set-asides providing highly technical support. Small business contractors represent the foundation of NCCT's ToxCast and Virtual Tissues programs and have partnered with EPA scientists to help continue to grow the Computational Toxicology Program. These two set asides combined are in the \$10M range.

The Remedial Action Framework (RAF) is a program wide acquisition planning initiative. This effort involves OAM, Office of Small Business Programs (OSBP), Office of Superfund Remediation and Technology Innovation (OSRTI) and regional offices, with a shared purpose to update the overarching acquisition strategy and develop acquisition plan(s) for all contracts awarded to support the Superfund Remedial Program. In FY 2015, Superfund RCRA Regional Procurement Operations Division (SRRPOD) continued ongoing efforts to collaborate with OSRTI to develop a new acquisition strategy known as the Remedial Acquisition Framework, which supports the Superfund Remedial Program. This ongoing effort aims to transition from the existing Remedial Action Contracts (RACs), a full spectrum of remedial services, to a centralized streamlined and efficient model of contracting, which provides for multiple awards for each of the three (3) suites of services. The new approach to procuring remedial services will serve to increase opportunities in three major ways:

- 1) It breaks out the three (3) functional areas of the traditional full service RACs into three (3) separate suites of contracts for: A&E services (Design Engineering Services [DES]); Construction Services (Remedial Environmental Services [RES]); and, Oversight Services (Environmental Services and Operations [ESO]). Allowing for separate contracts for each of the functional areas is expected to provide focused competition among firms with the strongest qualifications in the same field of expertise. The ESO contracts will be a 100% set aside for Small Business concerns and the suites for DES and RES will be procured through full and open competition with reserves for three (3) highly qualified small businesses for each CLIN.
- 2) By breaking up the three functional areas into three separate requirements, the opportunity for small business concerns to compete for direct contract awards for construction and oversight/operations type work will be opened up for the small businesses at the prime level. Traditionally, the practice of competing contracts for remediation services has been done only on a limited basis by project in Region 7 and 4 (site specific contracts), and ordinarily, small businesses performed under subcontracts under the RACs.
- 3) The contracts that will be awarded under each suite will be multiple award contracts (MACs). As such, each contractor is afforded consideration for award under a fair opportunity process for each task order under their contract. Therefore, competition is enhanced at the contract level, and the task order level throughout the 10 year lifetime of each contract.

The Region 1 Office of Contracts and Procurement is taking an active role in assisting in the development of the RAF, and an even more active role in developing the statements of work for the program. Region 1 is working with the Program Offices and OAM to allow for task order competition under the framework which was previously not available. Also, in having an active

role in the SOW development, they are seeing how the SOW development will allow for contractors that previously had not been involved in the Superfund Remedial Program to compete for the services this time around, thus increasing competition.

On September 10, 2015, Region 9 issued a Request for Information (RFI) for an upcoming Uranium Mines Response, Assessment, and Evaluation Services contract -- a vital step in the Agency's long term strategy to clean up abandoned mines on the Navajo Nation. The RFI was a market research tool intended to solicit input from businesses and industries, especially environmental consulting firms, on possible solutions and recommendations for the draft scope of work associated with the cleanups. The RFI was then incorporated into industry days later the same month. On September 16th and 17th, Region 9 and the SBA hosted industry days that were specifically focused on upcoming contracting opportunities related to the Tronox settlement. The events were held in Albuquerque, NM and Window Rock, AZ (on the Navajo Nation). The event had around 150 attendees in Albuquerque and close to 130 attendees in Window Rock. About two thirds of the attendees were representatives from small businesses. The industry days were a tremendous success, and Region 9 received exceptional feedback from small businesses, Navajo owned businesses, large businesses, as well as from Navajo Nation. Region 9 was able to get local small businesses excited about the upcoming opportunities and encouraged them to sign up for SBA certifications, which will better enable them to participate in small business set-asides. As a result of all of Region 9's acquisition planning/market research efforts, Region 9 was able to set aside a \$220 million procurement exclusively for small business.

B. Using competition in an effective manner

The EPA is proud of its efforts to ensure clear statements of work that provide sufficient information, so the companies may make informed business decisions on whether to respond and perform the due diligence necessary to propose the best solutions. When appropriate, the EPA also publishes proposed requirements for public comment prior to issuance of a solicitation. The program offices have been instructed that their written requirements must be performance based. Most often the performance measures focus on the aspects of quality, responsiveness, timeliness, and cost. Additionally, quality assurance surveillance plans are put in place to monitor performance. Competition is enhanced through the use of performance-based contracting, as it requires clear and measurable contract performance standards in terms of quality, quantity, and timeliness.

The EPA considers the complexity, commerciality, availability, and urgency in establishing due dates for proposals. All buying offices work to allow the maximum number of days for proposals to increase competition and encourage contractors to provide quality proposals that would allow for a best value award based on initial offers. It is the intent of the EPA to award based on initial offers as stated in solicitations issued by the agency.

During the evaluation process, the EPA takes into account recent and relevant past performance, including quality, timeliness, and cost control. During FY 2015, the EPA relied on the Navy's Contractor Performance Assessment Reporting (CPAR) System to obtain past performance information on vendors. The EPA annually holds "stand down" days to remind Contracting Officers to input and update the information on their existing contracts in the system so that

current and relevant information is available for upcoming procurement opportunities. In addition to the agency using the Navy's CPARS system, it also used Federal Awardee Performance and Integrity Information System (FAPIIS), and Past Performance Information Retrieval System (PPIRS) during FY 2015.

CPOD's Office of Water Service Center (OWSC) looked closely at contractor feedback on its multiple award contracts in regards to the TEC and TEP process for task orders. They utilized low price, technically acceptable TEC when it was appropriate, which created increased competition and resulted in new contractors being awarded task orders. They found that in some instances, the best value approach was creating an emphasis on past experience that was making it difficult for new contractors to be competitive. As a result of switching to a Lowest Priced Technically Acceptable Acquisition Strategy, they were able to discern who was capable of performing the work technically, and then utilize price as a determining factor, which increased the number of awards going to different contractors.

Headquarter Procurement Operations Division (HPOD) has attended several Federal Information Technology Acquisition Reform Act (FITARA) acquisition approval reviews where the Chief Information Officer (CIO) reviews the program office's procurement request for the type of item or service that is required; whether strategic sourcing vehicles were reviewed; determining if competition is being limited; substantiating whether the product or service has a sustainability component and is accessible through Section 508. Several IT procurements have gone through this process within the HPOD National Procurement Service Center (NPSC) in FY15, including the Smart Tools, Enterprise Network Services (ENS), and the Information Collection Request, Review and Approval System (ICARAS) requirements. Further, NPSC in conjunction with the HPOD Business Analysis and Strategic Sourcing Service Center (BASS), also completed a Strategic Sourcing Solicitation for Enterprise Network Services (ENS). Once awarded, this will be a managed services contract that will support the Agency's enterprise initiative to achieve a centrally-managed local area network (LAN) platform from a single source. The goals of this enterprise-wide effort will be to optimize the Agency's local area network (LAN) infrastructure by implementing an agile and consistent enterprise network system. Small business goals will be obtained through a sub-contracting arrangement.

HPOD's NPSC increased competition in FY 2015 through the use of its IT Hardware Contract. There are eight small businesses on this contract for IT laptops, Desktops, Scientific Desktops as well as Lightweight and ultra-book Laptops. The Agency went through a major IT laptop refresh. This contract was used to support not only Headquarters but several of EPA's Regional offices. In addition, NPSC increased competition in FY 2015 through the use of the Information Technology Solutions – Business Information Strategic Support 2 (ITS-BISS II) multiple award contract. Under ITS-BISS II, seven (7) awardees competed for the numerous task orders. This contract is due to be re-competed and is now being looked at through procurement planning initiatives-as to how to construct the statement of work and the most efficient way to set up the solicitation for re competition (ITS-BISS III). Further, the program office has decided to add a third Functional Area for Coding and Development work. This will allow for additional small business participation.

HPOD's Program Contract Service Center (PCSC) is working to award more multiple award indefinite delivery indefinite quantity (IDIQ) contracts whenever possible or practicable. Staff are currently working on a solicitation for a multiple award IDIQ contract with firm fixed price/time and materials (FFP/T&M) task orders that was previously managed through 3 single award cost reimbursement contracts with work assignments. The benefits of using this type of vehicle was explained to the program office and although they were very skeptical at first, they now can see the benefits. PCSC is also proposing to adopt the DOD model that requires Contracting Officers to go back out with the request for quotation (RFQ) for 30 calendars when less than the three (3) quotes required by FAR Subpart 8.4 are received and when eBuy is not used to solicit GSA vendors.

A concerted effort was made by RTPPOD in FY 2015 to enhance competition on the Office of Air and Radiation's (OAR) contract for "Analytical Laboratory Support for the Chemical Speciation of PM Filter Samples". Each of the previous two contracts (68D03038 and EPD09010) were awarded to RTI, International (RTI) after only a single offer was received. Contract 68D03038 was awarded to RTI at a maximum value of \$38M and contract EPD09010 was awarded to RTI at a maximum value of \$35M. For the most recent competition, OAM and OAR made a joint decision to split up the statement of work in order to get other interested parties involved. The SOW was split between Filter Handling Support and Analytical Laboratory Support. Three offerors submitted under the solicitation for the Analytical Laboratory Support effort and two submitted against the Filter Handling Support solicitation. Two contracts were awarded as follows: EPD15001 to AMEC at a maximum value of \$4.8M and EPD15020 to the University of California Davis at a maximum value of \$14.6M. Compared with the most recent RTI contract, the combined estimated savings is approximately \$15M for the resulting five year contracts.

Competition was enhanced by RTPPOD during FY 2015 by conducting preproposal conferences and site visits for all on-site requirements. These opportunities allow prospective offerors an opportunity to ask questions which are usually addressed via an amendment to the solicitation. In addition, interested offerors are provided a tour of the site or facility where the work is being performed which facilitates a more in depth understanding of the requirement resulting in enhanced competition. Competition was also enhanced by extending the due date for receipt of proposals as required to ensure offerors had sufficient time to review technical requirements. Multiple proposals were received for all three Operations and Maintenance solicitations issued by RTPPOD during FY 2015.

The inception of the virtual teams of Regional acquisition offices should have a major impact on competition on EPA acquisitions going forward. Regions 1, 2, and 3 are members of the Eastern Virtual Team. Regions 4, 5, and 6 are members of the Central Virtual Team, and Regions 7, 8, 9, and 10 are members of the Western Virtual Team. The different teams will be developing three year acquisition plans jointly in the hopes of consolidating like requirements for two or three Regions. One of the three contract offices will then procure the goods or services on behalf of the team. This strategic sourcing effort should achieve cost savings while attracting competition through improved operational efficiencies.

Region 1 is also managing the award of the Environmental Services Contract (ESO) under the new Remedial Acquisition Framework. These national contracts are expected to be awarded in FY 2017 and will constitute a total small business set aside.

In FY 2015, Region 2 Contracts Management Branch (CMB) issued one Request for Quotation through FedConnect, nine RFQs in EBuy and one RFQ in SEWP. This resulted in more competition and better pricing than if they had only performed market research through search engines like GSA's e-Library and Google. In almost all instances, the Contracting Officer secured better pricing for the same item than the requisitioner obtained through their market research.

Region 2 CMB focused on justifications for brand name during FY 2015 and actively engaged the requisitioners to define the salient characteristics that led them to the specified brand. As a result, they were able to convert some of the requirements to brand name or equal purchases. While the end result did not change, Region 2 did receive other viable offers that were evaluated in a competitive process.

Most of Region 4's contracts are ID/IQ Time and Materials type contracts. Region 4 issues task orders against the existing contracts. When appropriate, Region 4 does issue site specific contracts after weighing the comparative benefits of awarding a new contract versus placing an order under an existing contract, using fair opportunity.

As a result of market research, Region 5 was able to set-aside the superfund oversight contracts for small businesses. Four ID/IQ contracts were awarded to small businesses, and task orders will be competed amongst the four.

Also in Region 5, a full and open competition was executed for the placement of construction contracts for the Great Lakes National Program Office. Due to the high dollar amount of the work to be completed under the contracts, it was found through past experience and market research that many small businesses are unable to obtain the necessary bonding. However, three awards were made, of which two were awarded to small businesses. These small businesses were able to meet the high bonding requirement.

Region 7 already competes the majority of its major acquisitions. In addition, with the exception of the Superfund major class contracts, all are solicited as some type of small business set-aside and they conduct pre-proposal conferences on a normal basis and utilize "email blasts" that are sent out by their small business specialist. This method has generated and continues to generate good competition with multiple proposals being received. Average number received is five (5), but they have had as many as sixteen (16) in the past.

Region 8, along with its partners in the Western Virtual Team are currently working on three procurements that will provide services to Regions 7, 8 9, and 10. All will be awarded to small businesses.

All acquisitions for services that require a Statement of Work include some account of past performance information. This may range from calling contact points from the Dynamic Small Business Search to searching the Past Performance Information Retrieval System. The PPIRS is

utilized to supplement past performance questionnaire responses for all technical evaluations performed as part of the pre-award process. Further, past performance relative to quality, timeliness and cost control is built into all Quality Assurance Surveillance Plans. The QASPS are used by the CO and COR to determine whether or not a contractor has met the Acceptable Quality Levels during the specified performance period, in order to earn an Award Term.

C. Emphasizing sound contract management and oversight

The EPA ensures that properly trained contracting officer representatives (COR) are designated for contracts before contract performance begins. The requirements to be a COR are listed in EPA policy guidance. OAM provides regular training and maintains the database of certified CORs, and the Contracting Officers ensure that proposed modifications are within the scope of the contract or order. In accordance with Agency policy, CORs are appointed based on FAC-COTR certification requirements.

PTOD and CPOD played an active part in the COR policy changes in FY 2013 and into FY 2014 which improved the process of nominating and appointing properly trained CORs that was utilized in FY 2015.

Regarding contract modifications, SRRPOD Contracting Officers, upon receipt of any request for modification, evaluate the task orders and work assignments SOW, to ensure modifications requested are within the scope of the basic contract or task order. SRRPOD's internal Quality Assessment Plan (QAP) specifically lists the review of scope of work for modifications as an item requiring close scrutiny, and requires ongoing oversight of the proper use of modification authorities, and specifying that a "second set of eyes" review by another contracting officer, the cognizant Team Leader, or the cognizant Service Center Manager be performed for actions other than routine incremental funding.

In addition, HPOD has fully implemented an internal controls program that emphasizes and ensures consistent high quality contract management and oversight through continuous reviews of HPOD's contracting activities as well as a review of all COR training documentation. If the COR is about to lose their certification, a notice is sent to them to remind them to take the training. Some simplified acquisition CORs have been encouraged to be similarly trained if they are tasked with overseeing more complex requirements.

In Fiscal Year 2011, OAM implemented a Balanced Scorecard (BSC) Performance Measurement and Management Program (PMMP) as the methodology for assessing the Agency's acquisition related business functions. As part of the PMMP, OAM established the Contract Management Assessment Program (CMAP) which implemented an objective, systematic approach toward assessing achievements against either established OAM or Agency Strategic Goals. Through the utilization of the CMAP, the Agency is better positioned to strengthen its acquisition systems and its workforce. The intended result is to establish and maintain a world class procurement operation at EPA. EPA conducted five Contract Management Assessment Program (CMAP) Reviews during Fiscal Year 2015 at the following five procurement offices:

Region 6 – October 27-31, 2014 (61 contract files were reviewed)

HPOD – February 2-6, 2015 (130 contract files were reviewed)
SRRPOD – April 20-24, 2015 (74 contract files were reviewed)
Region 7 – July 13-17, 2015 (45 contract files were reviewed)
Region 3 – August 10-14, 2015 (55 contract files were reviewed)

The AAC review of the CMAP peer reports completed during FY 2015 has not identified any systemic issues that adversely affected the agency's competition program.

TRENDS ON ORDERS OVER \$1 MILLION

There are few trends in competition on orders over \$1 million as a result of the EPA's commitment to competition. The orders that were identified demonstrated that they were conducted with sufficient time to allow for competitive offers to be received and to promote competition. In one instance, the Contracting Officer allowed 15 days for offers and received 3 offers, another Contracting Officer allowed 7 days and received 5 offers, while in another situation the Contracting Officer allowed 30 days for offers and 2 offers were received. It appears that the Contracting Officers are making good judgments on the number of days needed for their particular requirements depending on the level of complexity.

SUMMARY & RECOMMENDATIONS

The EPA will continue to be one of the top agencies leading competition success as we continue our aggressive acquisition planning efforts by implementing creative acquisition processes that expand competition, ensuring there are clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's dynamic real-time Forecast Database. The following actions will be pursued in FY 2016 and beyond to help improve upon strong EPA competitive processes.

1. The AAC recommends further policy changes regarding the issuance of the Annual Call Memo and the three year acquisition planning process to implement the changes that will be the result of a LEAN Event. One anticipated change will be to the deadline of submission of the Annual Call Memo submissions to be even earlier in the fiscal year. This encourages all parties to start their acquisition planning efforts early as well as to ensure that all agency requirements are posted in the Acquisition Forecast Database before October 1 of each year.
2. The AAC will continue to support opportunities for vendor outreach by providing OAM staff to speak at and assist with the Office of Small Business Programs Counseling Sessions (four or five per year), the Office of Environmental Information's Industry Day, and the Annual Government Procurement Conference in which the OAM staff assists OSBP man the EPA Booths and participate in one-on-one sessions with companies to improve communications with industry and to encourage competition and help build a stronger competition base for future procurements.
3. The AAC will work with PTOD on establishing additional training opportunities on the three reverse auctioning tools (GSA's and CompuSearch's, and perhaps Fedbid.com if

deemed necessary) in FY 2016. The AAC recommends the use of reverse auctioning when appropriate and recommends that the necessary training is held to ensure that all OAM staff members are informed of each tools' capabilities.

4. The AAC will work to maintain and promote the use of the Acquisition Forecast Database to ensure the data is current, accurate, and complete.
5. The AAC will manage the quality assurance program for competition by doing quarterly audits to ensure that Contracting Officers are posting JOFOCs and LSJs over \$150,000. If not properly and/or timely posted, the AAC will ensure that they are as soon as possible once the audit has been completed.

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Date:

U.S. Environmental Protection Agency
Office of Acquisition Management

Competition Advocacy Program

**Protecting Human Health & Safeguarding the Natural Environment
Through Innovative Solutions Realized From Creative and Competitive Contracting
Methodologies**

**Fiscal Year 2014
Agency Advocate for Competition (AAC) Report**

EXECUTIVE SUMMARY

The Agency's Advocate for Competition (AAC) is pleased to present this "state of competition" assessment of practices, achievements and future plans to continue increasing competition on the EPA's procurement opportunities. The EPA is committed to promoting competition on all new, current, and follow-on procurement opportunities as demonstrated by our high rate of competitive dollars in Fiscal Year (FY) 2014. In the Federal Procurement Data System-Next Generation (FPDS-NG) report dated March 4, 2015, the EPA awarded 85% of all dollars competitively in FY 2014, up by 2% from FY 2013 (83%) up by 6% from FY 2012 (79%), and up by 8% from FY 2011 (77%). It should be noted that the EPA was recognized in FY 2008 by the Office of Federal Procurement Policy (OFPP) as having some of the most effective practices for enhancing competition in the Federal Government. The EPA continues to utilize these practices each year to continue to increase competition on new, current, and follow-on procurement opportunities and strives to always look for ways to improve its competitive record.

The EPA's success regarding competition is largely attributable to our aggressive advanced acquisition planning efforts, implementing creative acquisition processes that expand competition, ensuring clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's Acquisition Forecast Database. During FY 2014, the Balance Scorecard Initiative (BSC) entitled Streamlining the posting requirement for Justifications for Full and Open Competition, Limited Source Justifications, and Brand Name Justifications was implemented. During FY 2012, the EPA also implemented many successful strategies for increasing competition, which were the result of the BSC Initiatives which we continued to utilize during FY 2013 and FY 2014. These Initiatives included: the implementation of the Contract Management Assessment Program, the establishment of the Vendor Communication Plan, Contract Performance Metrics, and the FPDS-NG Data Quality Program, to improve the Environmental Protection Agency's Acquisition System (EAS)/FPDS Validation Process.

Questions concerning the information contained in this report may be referred to Susan Moroni, EPA's Agency Advocate for Competition, at (202) 564- 4321 or by e-mail at moroni.susan@epa.gov.

INTRODUCTION

The Agency Advocate for Competition (AAC) ensures that increasing competition remains a top priority within the EPA's Office of Acquisition Management, and all of the EPA buying activities in Washington, D.C., Cincinnati, Ohio, Research Triangle Park, North Carolina, nine regional procurement offices, and eleven laboratories around the country. The Agency continues to emphasize competition in the acquisition of its requirements, resulting in impressive savings to taxpayers and increasing the pool of, and contract opportunities for, potential contractors. Competition is of the utmost importance in our acquisition system, and this report will demonstrate how the EPA facilitates efficient and effective competitions under its procurements. This report details the role of the Agency Advocate for Competition, the EPA's FY 2014 competition results, and actions underway to strengthen the Competition Advocacy Program at the EPA. In addition, this report contains recommendations for reinforcing the use of competition practices for strengthening the Agency's competitive environment.

ROLE OF THE AGENCY ADVOCATE FOR COMPETITION

The EPA has been successful in conducting full and open competition by ensuring that all personnel involved in the procurement process, from identification of the requirement through final payment on the contract, work as a team to maximize competition. The AAC's primary responsibilities are to:

- Develop, direct, and maintain the competition program to ensure that competition initiatives are incorporated and implemented at all levels.
- Promote the use of and challenge barriers to full and open competition in all acquisitions.
- Identify and report opportunities and actions taken to achieve, and any conditions or actions which unnecessarily restrict the use of full and open competition.
- Ensure that oversight mechanisms are established to provide visibility on any issues or obstacles to obtaining competition.
- Ensure the competition is planned early in the acquisition process to minimize factors inhibiting full and open competition.
- Promote market research to identify competition potential in support of acquisition strategies before the procurement decision is irrevocably made.
- Ensure that acquisition plans maximize competition.
- Review and approve sole source actions exceeding \$650,000 and Determinations and Findings for exclusion of certain sources.
- Prepare and submit annual reports describing activities, new initiatives, and recommendations on improving competition.

- Serve as the EPA spokesperson for competition to industry, other Government agencies, and the EPA Program Offices.

AUTHORITIES/REQUIREMENTS FOR LIMITING COMPETITION

The Federal Acquisition Regulation (FAR) provides four distinct methods for limiting competition. First, FAR Subpart 6.3 – Other Than Full and Open Competition, provides the policies and procedures, and identifies the statutory authorities for contracting without providing for full and open competition. Second, FAR Subpart 8.405-6 – Limited Sources Justification and Approval, provides that orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when; only one source is capable of responding due to the unique or specialized nature of the work; the new work is a logical follow-on; or when an urgent and compelling need exist. Third, FAR Subpart 13.501 – Special documentation requirements, allows sole source (including brand name) acquisitions for certain commercial items. Fourth, FAR Subpart 16.505(b)(2)(i) – Exceptions to Fair Opportunity under Multiple Award Contracts, provides six statutory exceptions to the requirement that every awardee under a Multiple Award Contract is to be given fair opportunity to be considered for all delivery-orders or task-orders exceeding \$3,000. The six statutory exceptions to Fair Opportunity under a multiple award contract includes; urgency; only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized; in the interest of economy and efficiency because it is a logical follow-on; to satisfy a minimum guarantee; a statute expressly authorizes or requires that the purchase be made from a specified source, or in accordance with Section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in Part 19 apply. For the purpose of this report, these four methods for limiting competition will be uniformly referred to as sole-source actions. It is also worthy to note that there are some noncompetitive awards that require no further justification (e.g., awards to an 8(a) firm, public utility, or a source authorized or required by statute) and these actions are not included or addressed in this report.

The sole source actions that are submitted for the approval of the AAC are usually limited to those instances where, for example, the Agency had no other choice but to award on a noncompetitive basis if scientific objectives and Congressional mandates were necessary, when the public health and welfare were at stake, or when time was of the essence to alleviate an immediate danger. The EPA is an agency that is required to protect human health and the environment in the case of a terrorist attack or national emergency, and has issued class justifications to be prepared for these situations. These sole source vehicles are only to be utilized in rare circumstances when competition is not possible due to emergency health and environmental threats. With the availability of a document which can be invoked in a qualifying emergency, the EPA will not need to issue a new document at a point where it may be impossible.

The AAC, with the cooperation of the contracting and program office personnel, will take steps to ensure that there are no noncompetitive awards to continue on-going programs delayed due to poor advance planning and monitoring of current contracts.

The EPA will continue to strive to reduce noncompetitive acquisition situations. Under many of its programs, the EPA has significantly broadened the contractor base and provided opportunities for more companies to compete. The EPA's contracting and program office staff continue to work to increase competition and develop additional sources to satisfy the EPA's requirements. In some instances where an incumbent has repeatedly received follow-on contracts, additional sources have been developed by continuing to break out requirements and allowing the incumbent and the prospective contractors to propose on only a single part of the requirement. By taking these actions, the Agency is developing sources and broadening its contractor base.

SPECIFIC AREAS IN WHICH COMPETITION HAS BEEN ENHANCED

The AAC has been referred to as the "Gate Keeper" for ensuring competition by the EPA's Office of Inspector General. The AAC meets with the program office and contracting officer when any sole source action requires the review or approval of the AAC. In these meetings, the AAC asks what steps were taken or options considered prior to determining sole source, including how the program office and the contracting office will remove barriers to competition for future requirements. The contracting and program office staff have learned that they must fully justify any sole source actions and make the case that they are necessary in order for the AAC to consider approval. During FY 2014, there were two sole source actions over \$12.5 million which needed the approval of the Senior Procurement Executive (SPE).

Each year, the Director of the Office of Acquisition Management (OAM) and the Director of the Office of Small Business Programs (OSBP) jointly issue the Annual Call Memo, prepared by the AAC, requesting acquisition plans. The Annual Call Memo provides clear instructions and examples of the necessary information to help encourage competition. Also, the Annual Call Memo includes a specific deadline for when new requirements are to be submitted to the procurement offices. Many program offices have found this to be helpful in understanding the acquisition process and importance of meaningful acquisition planning. During Fiscal Year 2012, the AAC recommended in the annual competition report that the Annual Call Memo be issued during the second quarter of the Fiscal Year, instead of the third quarter. As a result, during Fiscal Year 2013, the EPA Acquisition Guide (EPAAG) was revised by the Policy, Training, and Oversight Division (PTOD) to reflect this change. This ongoing practice allows for ample time to conduct the acquisition planning meetings between OAM, OSBP, and the program offices during the third quarter of the fiscal year, and have the information regarding the upcoming procurements input into the Acquisition Forecast Database by the end of the third quarter before the end of the fiscal year workload crunch and well before the October 1 deadline each year. The AAC recommends that this policy remain unchanged.

Historically, OAM sponsored two Contractor Forums annually. The Contractor Forums encouraged competition by bringing the EPA personnel together with small businesses, large businesses, and organizations interested in contracting with the EPA, and orientated prospective contractors on the goals and objectives of the EPA's program and staff offices. The Contractor Forum gave contractors an avenue in which to talk with the EPA about future opportunities, and

for the EPA to provide information on how to do business with the agency. Due to budgetary constraints, OAM has not been able to sponsor a Contractor Forum since November 9, 2011 when the event was held in Region 5, Chicago, IL, with over 200 people in attendance. OAM does provide support to the Office of Small Business Programs (OSBP) with their numerous vendor outreach sessions during each fiscal year. OAM provides volunteers from its staff to take part in One-on-One Counseling Sessions with small businesses, conduct presentations that include information on current opportunities and forecasted opportunities, help OSBP man the EPA Booths at the Government Procurement Conference, etc. These volunteer efforts are coordinated by the AAC. The AAC recommends the OAM staff continues to support OSBP with vendor outreach sessions as this practice provides the small business community with information regarding EPA's current opportunities which leads to increased competition on the identified procurements.

The AAC is happy to report that there will soon be three available options of reverse auctioning tools.

Several years ago, the previous AAC introduced the EPA staff to and encouraged the use of Fedbid.com (located on the internet at <http://www.fedbid.com>) which is a reverse auction site. Since that time, the use of Fedbid.com has contributed toward increasing competition for various types of products that many program offices thought were only available through limited sources.

- In FY 2014, the EPA's use of Fedbid.com totaled 100 reverse auctions, with an average number of 8 bids per auction, 89% of the awards were made to small businesses, and we experience savings of 9% from the government estimate.
- In FY 2013, the EPA's use of Fedbid.com totaled 111 reverse auctions, with an average number of 10 bids per auction, 64% of the awards were made to small businesses, and we experience savings of 9% from the government estimate.
- In FY 2012, the EPA's use of Fedbid.com totaled 153 reverse auctions, with an average number of 12 bids per auction, 76% of the awards were made to small businesses, and we experienced savings of 6% from the government estimate.
- In FY 2011, the EPA's use of Fedbid.com totaled 145 reverse auctions, with an average number of 9 bids per auction, 58% of the awards going to small businesses, and savings of 8% from the government estimate.
- In FY 2010, the EPA's use of Fedbid.com totaled 104 reverse auctions, with an average number of 9 bids per auction, 43% of the awards going to small businesses, and savings of 3.6% from the government estimate.
- In FY 2009, the EPA's use of Fedbid.com totaled 73 reverse auctions, with an average number of 19 bids per auction, 39% of the awards going to small businesses, and savings of almost 3.2% from the government estimate.

The trend shows that the agency has been increasing the number of competitive awards to small businesses while still obtaining great savings each fiscal year through the use of Fedbid.com. In the past, representatives from Fedbid.com were asked to come to EPA and conduct training sessions for the contracting staff. OAM will conduct an assessment to determine the need for

Fedbid.com training on new features as well as refresher training as EPA's current staff has already been trained on the use of Fedbid.com's reverse auctioning site.

Prior to FY 2014, Fedbid.com was the only source that had a reverse auctioning tool. However, in FY 2014, the General Services Administration created a reverse auctioning tool. The AAC arranged to have GSA employees present the training to OAM's staff on two separate dates. Most felt that the GSA tool was very user friendly. It was designed to work hand in hand with e-Buy and the buyer's even use their same login and password for this reverse auctioning tool system as they do for e-Buy.

CompuSearch is a private company that developed the Environmental Protection Agency's Acquisition System (EAS) which is the OAM acquisition contract writing system also known as PRISM at other agencies. CompuSearch was in the process of development of a reverse auctioning tool during FY 2014. Their tool will become a module of EAS for OAM's staff member's use upon the rollout of EAS 7.2 which is projected for April 2015. The AAC plans to arrange for training which will be conducted by CompuSearch trainers in Fiscal Year 2015.

The AAC recommends the use of reverse auctioning when appropriate and recommends that the necessary training is held to ensure that all OAM staff members are informed of the three available tools and their capabilities. The AAC will work with PTOD to ensure that the training is conducted during FY 2015.

The AAC monitors the EPA's dynamic real-time Forecast Database, which is on the Internet at <http://www.epa.gov/oam>. The Forecast Database contains detailed information on current and future procurement opportunities, including the contact person, due dates, statements of work, and other relevant information. The EPA's Forecast Database equips businesses with the information they need to effectively compete for Agency contracts. The Forecast Database has been used as a model by other agencies that are trying to enhance competition and has been recognized by companies interested in doing business with the EPA as an extremely valuable tool. The AAC has promoted aggressive efforts to ensure that the data is current, accurate and complete. The EPA publicizes opportunities up to three years in advance through the use of the Forecast Database on the EPA/OAM internet site. This helps to enhance competition by providing a location for vendors to learn about upcoming requirements well before the procurement process begins. Improvements to the EPA OAM Internet site have provided more user-friendly features and access to more information. These improvements continue to result in fewer telephone calls to contract specialists and contracting officers for information which is now easily assessable and readily available on the Internet. Also, these improvements to the above broaden communications between industry and the Government which enhances the potential for more competition. The EPA Administrator also utilizes the information contained in the Forecast Database when addressing audiences around the country. The AAC recommends that the Agency continues to maintain and utilize the Forecast Database.

COMPETITION DATA

During FY 2011, OFPP established a new Competition Report in FPDS-NG. Although this report derives from the old Competition Report, the significant difference is that the new

Competition Report does not record actions as competitive if fair opportunity was not given to the task orders when awarded under Agency Multiple Award Contracts (MAC). Under the previous Competition Report, if the original MAC was awarded competitively, then all resultant task orders were also considered and recorded as competitive. This is not the case with the new report which will be used for all future AAC Reports. During Fiscal Year 2013, EPA implemented a new initiative entitled, "Assess Multiple Award Contracts (MACs) Impact on Competition". The objective was to determine whether the Agency is following an effective process by clearly communicating its intent to provide fair opportunity to compete each task order, ensure that the technical evaluation criteria was clearly presented, ensure that decisions to award after competition were made properly and properly documented, ensure that the proper exceptions to fair opportunity were being cited, and that the awards were coded correctly in EAS and FPDS-NG. This initiative was started in Fiscal Year 2013; however, work continued on this initiative through Fiscal Year 2014. This initiative also inventoried contracts coded as MACs in EAS to ensure they are truly MAC contracts (competing Task Orders) in order to get an accurate rate of competition.

During FY 2014, the AAC and the Policy, Oversight, and Training (PTOD) Division implemented an initiative entitled Streamline posting requirement for Justifications for Full and Open Competition, Limited Source Justifications, and Brand Name Justifications. This initiative resulted in the issuance of a Flash Notice that made two changes to internal posting procedures. The first was that the AAC would no longer review approved justifications prior to posting but would instead conduct audits of posted justifications valued above \$150,000. The second was that individual justifications would no longer be posted on EPA's internet website. Instead a statement would be listed on the website referring and linking vendors to FedBizOpps (FBO). Consequently, contracting officers no longer are required to initiate two help desk tickets but only one for posting justifications on FBO. After the implementation of EAS 7.2, EAS will transmit it directly to FBO at time of award further streamlining the posting process for the contracting officers.

The EPA implemented many new initiatives/strategies in FY 2012 for ensuring that its data is as accurate as possible. These strategies continued to be utilized in FY 2013 and FY 2014. They include: establishment of competition-related Performance Metrics, the FPDS-NG Data Quality Program, and improving the EAS/FPDS Validation Process. Each of these initiatives focus on ways to improve the agency's current process. Performance Metrics established the benchmarks and timeframes in which the different contracting standards were to be met and measured. The FPDS-NG Data Quality Program was established to ensure the timely, accurate, and complete collection and reporting of data entered into FPDS-NG. The initiative for the improvement of the EAS/FPDS Validation Process was established to ensure that the actions being awarded through EAS were being reported accurately in FPDS-NG.

As always, the EPA is committed to ensuring competition in new, current, and follow-on procurement opportunities as demonstrated by its high rate of competitive actions in FY 2014. In the FPDS-NG report dated March 4, 2015, 85% of the actions in FY 2014 were competitive, a two percent increase from FY 2013, a six percent increase from FY 2012 (79%), and an eight percent increase from FY 2011 (77%). The EPA has been recognized in the past by the OFPP as

having some of the most effective practices for enhancing competition in the Federal Government, and we strive to increase our record each fiscal year.

ASSESSMENT OF COMPETITION PRACTICES

The Agency continued to enhance competition through the use of innovative procurement techniques. For all procurement opportunities other than small business set-asides, full and open competition was stressed as the most desirable method of acquisition and was pursued aggressively. In assessing the state of competition practices at the EPA for FY 2014, the AAC utilized the format provided by OFPP in its letter dated May 31, 2007. The following details the results of this review based on responses provided from the EPA procurement offices.

A. Ensuring sufficient attention to the manner in which acquisitions are planned

The AAC and the procurement offices have taken numerous actions to ensure that there is sufficient attention being paid to the manner in which acquisitions are planned. It is clear that acquisition planning is one of the best ways to ensure competition. At the EPA, we utilize cross-functional teams in the acquisition planning process, which includes the contracting staff, the program office staff, and the OSBP staff. Detailed acquisition forecasting meetings are held with each individual customer to go over the next three year acquisition plans to determine strategies to enhance competition, including small business participation. At these planning meetings, the team discusses how competition will be sought and promoted. These planning meetings set forth strategy and identify and help prevent potential future noncompetitive awards. In most instances, all fiscal year requirements are being reviewed in the third quarter of the previous fiscal year to develop a total contract strategy for a particular technical program. Acquisition forecasts for large requirements consider, as appropriate, the comparative benefits of awarding a new contract versus placing an order under an existing contract by reviewing in-house capabilities and capacity on current contracts.

The EPA employs many market research techniques including publishing formal requests for information, querying government and commercial databases, counseling contractors on doing business with the EPA, holding pre-proposal conferences, and participating in events (such as outreach, matchmaking, etc.) with industry, other acquisition officials, and the program offices. Pre-proposal conferences provide an opportunity for potential offerors to familiarize themselves with the Government's requirement, encourage participation in the procurement, and provide a networking opportunity to establish subcontracting, mentoring, and/or teaming arrangements.

Each major acquisition involving a number of separate tasks is reviewed to determine the acquisition method best suited to enhance competition. This includes examining each task and determining whether to separate or combine them, depending on which method is most likely to generate the most competition. During FY 2014, the EPA did not process any actions that met the definition of contract bundling.

Specific initiatives from some of EPA's procurement offices are as follows:

CPOD enhanced competition on procurement opportunities in FY 2014 by carefully reviewing new solicitation packages to ensure the LOE included in the solicitations adequately reflected the true needs of the Government. Due to recent budget declines and changing priorities in the EPA, the hours included in the initial package were not reflective of the actual LOE utilization under the current contracts. CPOD worked closely with the program office to carefully analyze each year of the current contract to review how many hours were used. Then the team discussed the current needs of the program office. As a result, CPOD was able to reduce the amount of hours included in several solicitations to realistically reflect the needs of the Government. Right sizing these contracts allowed offerors to determine if they had the proper capabilities and resources to support the requirements in the solicitation, and encouraged competition from offerors who might not have been able to compete on much larger contracts.

The agency's piloting of the FedConnect feature in FY 2013 and regular use throughout FY 2014 has resulted in advertisement of EPA requirements to a wider pool of contractors thus allowing for increased competition.

SRRPOD/ERSC had two procurements in FY 2014 over the Simplified Acquisition Procedures, the Environmental Response Training Program (ERTP) small business set-aside and the Offshore Marine Debris Search. To enhance competition under the ERTTP, the acquisition strategy was changed from a cost type arrangement to a fixed priced type contract written in accordance with FAR Part 8 which opened up the procurement opportunities for 15 potential offerors under Schedule 899. In addition to changing the strategy, SRRPOD/ERSC utilized Fedbizopps, Fedconnect, one-on-one meetings with the various small businesses during small business forums, and GSA advantage to advertise this requirement. Their efforts resulted in four (4) proposal, and two of the offerors were new to the agency. While the award went to the incumbent, the three other offerors proved very competitive. For the Offshore Marine Debris Search acquisition, a highly technical new requirement to the Agency, they enhanced competition through the use of Fedbizopps, Fedconnect, and one-on-one meetings with the various businesses during small business forums to publicize the requirement. Their efforts resulted in two offerors.

During FY 2014, SRRPOD/PMRCSC collaborated with Office of Superfund Remediation and Technology Innovation (OSRTI) to develop a new acquisition strategy (the Remedial Acquisition Framework) in support of the Superfund Remedial Program. The traditional Remedial Action Contracts (RACs), provide for a full spectrum of remedial services under one type of contract – the RAC. Services under these contracts reflected 3 different functional areas of the clean-up process and ranged from Remedial Design (Architect & Engineering Services) through Remedial Actions (including construction) to oversight and the operation of long term clean up remedies. The new remedial paradigm will shift from 2-4 independently awarded full service RACs for each region to a model which provides for multiple awards for each of the 3 suites of services for each region. The new approach for procuring remedial services will serve to increase opportunities in three major ways:

- The new approach breaks out the 3 functional areas of the traditional full service RACs into 3 separate suites of contracts for: 1) A&E services (Design Engineering Services - DES), 2) construction services (Remedial Environmental Services- RES), and 3) oversight services

(Environmental Services and Operations – ESO). At this time, it is anticipated that the ESO contracts will be a 100% set aside for Small Business concerns. The suite for RES will have the flexibility to set-aside certain work at the project level for small business.

- By breaking up the 3 functional areas into three separate requirements, the opportunity for small business concerns to compete for contract awards for construction and oversight/operations type work is now opened for the small businesses at the prime level. Competing contracts for remediation services has been done on a limited basis (by project) in Region 7 and 4 (site specific contracts), but are ordinarily performed under subcontracts under the RACs.

- The plan is to award multiple task-order contracts (MACs), and as such, each contractor awardee will be provided a fair opportunity to be considered for the award of each task order to be issued under their contract. Therefore, not only will competition be enhanced at the contract level, but also the task order level throughout the ten (10) year lifetime of each contract.

The Region 1 Office of Contracts and Procurement is taking an active role in assisting in the development of the RAF, and an even more active role in developing the statements of work for the program. Region 1 is working with the Program Offices and OAM to allow for task order competition under the framework which was previously not available. Also, in having an active role in the SOW development, they are seeing how the SOW development will allow for contractors that previously had not been involved in the Superfund Remedial Program to compete for the services this time around, thus increasing competition.

Region 2's acquisition strategy is to always seek to place an order under an existing contract, if feasible. This alternative is discussed between the Contracting Officer and the Project Officer, usually before the preparation of the Procurement Information Notice (PIN) package. EPA contracts that allow for placement of an order typically have been competed at the award stage and, as a result, offer fair and reasonable pricing. The same is true for contracts under GSA's Federal Supply Schedules (FSS) as well as Government-wide Agency contracts, such as NASA's Solutions for Enterprise-Wide Procurement (SEWP) Contracts. These contracts have the added benefit of allowing for further competition, on a streamlined basis, resulting in administrative and further price savings to the Region.

Region 7 already competes the majority of its major acquisitions. In addition, with the exception of the Superfund major class contracts, all are solicited as some type of small business set-aside and they conduct pre-proposal conferences on a norm basis and utilize "email blasts" that are sent out by their small business specialist. This method has generated and continues to generate good competition with multiple proposals being received. Average number received is 5, but they have had as many as 16 in the past.

In addition, Headquarters Procurement Operations Division (HPOD) developed an enterprise-wide strategic sourcing program to perform structured, methodical spend analysis to its requirements in order to ensure the optimum acquisition approach is utilized. This initiative should increase competition, lead to many efficiencies with combined "buying power", and achieve the lowest possible prices.

The inception of the virtual teams of Regional acquisition offices will have a major impact on competition on EPA acquisitions going forward. The Eastern Team will be developing three year acquisition plans jointly in the hopes of consolidating like requirements for two or three Regions. One of the three contract offices would then procure the goods or services on behalf of the team. This strategic sourcing should achieve cost savings while attracting competition through improved operational efficiencies.

B. Using competition in an effective manner

The EPA is proud of its efforts to ensure clear statements of work that provide sufficient information, so the companies may make informed business decisions on whether to respond and perform the due diligence necessary to propose the best solutions. When appropriate, the EPA also publishes proposed requirements for public comment prior to issuance of a solicitation. The program offices have been instructed that their written requirements must be performance based. Most often the performance measures focus on the aspects of quality, responsiveness, timeliness, and cost. Additionally, quality assurance surveillance plans are put in place to monitor performance. Competition is enhanced through the use of performance-based contracting, as it requires clear and measurable contract performance standards in terms of quality, quantity, and timeliness.

The EPA considers the complexity, commerciality, availability, and urgency in establishing due dates for proposals. All buying offices work to allow the maximum number of days for proposals to increase competition and encourage contractors to provide quality proposals that would allow for a best value award based on initial offers. It is the intent of the EPA to award based on initial offers as stated in solicitations issued by the agency.

During the evaluation process, the EPA takes into account recent and relevant past performance, including quality, timeliness, and cost control. During FY 2014, the EPA relied on the Navy's Contractor Performance Assessment Reporting (CPAR) System to obtain past performance information on vendors. The EPA annually holds "stand down" days to remind Contracting Officers to input and update the information on their existing contracts in the system so that current and relevant information is available for upcoming procurement opportunities. In addition to the agency using the Navy's CPARS system, it also used Federal Awardee Performance and Integrity Information System (FAPIS), and Past Performance Information Retrieval System (PPIRS) during FY 2014.

In Region 2, all acquisitions for services that require a Statement of Work include some account of past performance information. This may range from calling contact points from the Dynamic Small Business Search to searching the PPIRS. The PPIRS was utilized to supplement past performance questionnaire responses for all technical evaluations performed as part of the pre-award process. Further, past performance relative to quality, timeliness and cost control is built into all Quality Assurance Surveillance Plans. The QASPS are used by the CO and COR to determine whether or not a contractor has met the Acceptable Quality Levels during the specified performance period, in order to earn an Award Term.

Headquarters Procurement Operations Division (HPOD)'s Information Resource Management Procurement Service Center (IRMPSC) further enhanced competition in FY 2014 by continuing to leverage the SES3 multiple award BPAs. IRMPSC awarded 12 task orders across multiple agency offices on the SES3 BPAs, including one small business set aside. The National Procurement Service Center (NPSC) also did a complete small business set aside for the agency wide procurement of IT Hardware in FY13 and is now utilizing those vendors to fulfill the Agency's hardware requirements in FY14.

Since HPOD supports requirements that are national in scope, multiple award scenarios will continue to be considered when re-competing single award contracts. The National Procurement Service Center increased competition in FY 2014 through the use of its Information Technology Solutions – Business Information Strategic Support 2 (ITS-BISS) multiple award contract. Under ITS-BISS, seven (7) awardees competed for the numerous task orders. This contract is due to be re-competed and is now being looked at through procurement planning initiatives - as to how to construct the statement of work and the most efficient way to set up the solicitation for re-competition (ITS-BISS 3).

CPOD converted a follow-on contract for testing and evaluation from a single award, CPFF type to a multiple award, CPFF/FP IDIQ contract subject to Fair Opportunity requirements which is expected to enhance competition and reduce cost.

In FY 14, Region 2 issued a Request for Quotation to the 8 firms under EPA's recently awarded Multiple-Award Blanket Purchase Agreements for laptops. Five of the six quotes received were within a range of approximately \$7,000, with the lowest quote at \$3,065 below the Government's Cost Estimate. As a result, Region 2 issued the first call order against the new BPAs for laptops to a woman-owned small business.

In Region 3, they continued advertising their requirements to realize maximum competition and combined repetitive requirement into a single solicitation. One example was the requirement for analyzing indoor air samples TO-15. They get numerous requests for this every year; so in 2014, they issued a solicitation for a one year IDIQ to handle all of their TO-15 requirements and realized a significant increase in competition. Region 3 is also working with Regions 1 and 2 on combining similar requirements to increase competition and reduce costs. The Eastern Team (ET) of Regions 1, 2, and 3 will look to standardize requirements for SOWs, market research, advance funding, and adequate time to award all requirements.

Region 4 will continue to partner with other local, state and federal entities in outreach events focused at increasing competition and educating the public. Region 4 is in the process of working with Regions 5 & 6 on the placement of several of their contracts. It is anticipated that these contracts will be set-aside for socio economic businesses.

Most of Region 4's contracts are ID/IQ Time and Materials type contracts. Region 4 issues task orders against the existing contracts. When appropriate, Region 4 does issue site specific contracts after weighing the comparative benefits of awarding a new contract versus placing an order under an existing contract, using fair opportunity.

C. Emphasizing sound contract management and oversight

The EPA ensures that properly trained contracting officer representatives (COR) are designated for contracts before contract performance begins. The requirements to be a COR are listed in EPA policy guidance. OAM provides regular training and maintains the database of certified CORs, and the Contracting Officers ensure that proposed modifications are within the scope of the contract or order. In accordance with Agency policy, CORs are appointed based on FAC-COTR certification requirements.

PTOD and CPOD played an active part in the COR policy changes in FY 2013 and into FY 2014 which improved the process of nominating and appointing properly trained CORs.

In addition, HPOD has fully implemented an internal controls program that emphasizes and ensures consistent high quality contract management and oversight through continuous reviews of HPOD's contracting activities as well as a review of all COR training documentation. If the COR is about to lose their certification, a notice is sent to them to remind them to take the training. Some simplified acquisition CORs have been encouraged to be similarly trained if they are tasked with overseeing more complex requirements

In Fiscal Year 2011, OAM implemented a Balanced Scorecard (BSC) Performance Measurement and Management Program (PMMP) as the methodology for assessing the Agency's acquisition related business functions. As part of the PMMP, OAM established the Contract Management Assessment Program (CMAP) which implemented an objective, systematic approach toward assessing achievements against either established OAM or Agency Strategic Goals. Through the utilization of the CMAP, the Agency is better positioned to strengthen its acquisition systems and its workforce. The intended result is to establish and maintain a world class procurement operation at EPA. EPA conducted five Contract Management Assessment Program (CMAP) Reviews during Fiscal Year 2014 at the following five procurement offices:

Region 4 – February 24-28, 2014 (61 contract files were reviewed)

Region 9 – April 7-11, 2014 (68 contract files were reviewed)

Region 5 - May 12-16, 2014 (76 contract files were reviewed)

Region 2 – June 9-13, 2014 (60 contract files were reviewed)

Region 8 – July 12-16, 2014 (53 contract files were reviewed)

The AAC review of the CMAP peer reports completed during FY 2014 has not identified any systemic issues that adversely affected the agency's competition program.

TRENDS ON ORDERS OVER \$1 MILLION

There are few trends in competition on orders over \$1 million as a result of the EPA's commitment to competition. The orders that were identified demonstrated that they were conducted with sufficient time to allow for competitive offers to be received and to promote competition. In one instance, the Contracting Officer allowed 10 days for offers and received 3 offers, another Contracting Officer allowed 7 days and received 6 offers, while in another situation the Contracting Officer allowed 21 days for offers and 3 offers were received. It

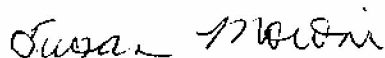
appears that the Contracting Officers are making good judgments on the number of days needed for their particular requirements depending on the level of complexity.

SUMMARY & RECOMMENDATIONS

The EPA will continue to be one of the top agencies leading competition success as we continue our aggressive acquisition planning efforts by implementing creative acquisition processes that expand competition, ensuring there are clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's dynamic real-time Forecast Database. The following actions will be pursued in FY 2015 and beyond to help improve upon strong EPA competitive processes.

1. The AAC recommends no further policy changes regarding the issuance of the Annual Call Memo but for the deadline to remain as by the end of the second quarter of each fiscal year. This encourages all parties to start their acquisition planning efforts early as well as to ensure that all agency requirements are posted in the Acquisition Forecast Database before October 1 of each year.
2. The AAC will continue to support opportunities for vendor outreach by providing OAM staff to speak at and assist with the Office of Small Business Programs Counseling Sessions (four or five per year), the Office of Environmental Information's Industry Day, and the Annual Government Procurement Conference in which the OAM staff assists OSBP man the EPA Booths and participate in one-on-one sessions with companies to improve communications with industry and to encourage competition and help build a stronger competition base for future procurements.
3. The AAC will work with PTOD on establishing additional training opportunities on the reverse auctioning tools (GSA's and CompuSearch's, and perhaps Fedbid.com if deemed necessary) in FY 2015. The AAC recommends the use of reverse auctioning when appropriate and recommends that the necessary training is held to ensure that all OAM staff members are informed of each tools' capabilities.
4. The AAC will work to maintain and promote the use of the Acquisition Forecast Database to ensure the data is current, accurate, and complete.
5. The AAC will manage the quality assurance program for competition by doing quarterly audits to ensure that Contracting Officers are posting JOFOCs and LSJs over \$150,000.

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U.S. Environmental Protection Agency
Office of Acquisition Management

Competition Advocacy Program

**Protecting Human Health & Safeguarding the Natural Environment
Through Innovative Solutions Realized From Creative and Competitive Contracting
Methodologies**

**Fiscal Year 2013
Agency Competition Advocate (ACA) Report**

EXECUTIVE SUMMARY

The Agency's Competition Advocate (ACA) is pleased to present this "state of competition" assessment of practices, achievements and future plans to continue increasing competition on the EPA's procurement opportunities. The EPA is committed to promoting competition on all new, current, and follow-on procurement opportunities as demonstrated by our high rate of competitive dollars in Fiscal Year (FY) 2013. In the Federal Procurement Data System-Next Generation (FPDS-NG) report dated December 18, 2013, the EPA awarded 83% of all dollars competitively in FY 2013, up by 4% from FY 2012 (79%), and up by 6% from FY 2011 (77%). It should be noted that the EPA was recognized in FY 2008 by the Office of Federal Procurement Policy (OFPP) as having some of the most effective practices for enhancing competition in the Federal Government. The EPA continues to utilize these practices each year to continue to increase competition on new, current, and follow-on procurement opportunities and strives to always look for ways to improve its competitive record.

The EPA's success regarding competition is largely attributable to our aggressive advanced acquisition planning efforts, implementing creative acquisition processes that expand competition, ensuring clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's Acquisition Forecast Database. During FY 2012, the EPA also implemented many successful strategies for increasing competition, which were the result of the Balanced Scorecard Initiatives which we continued to utilize during FY 2013. These BSC Initiatives included: the implementation of the Contract Management Assessment Program, the establishment of the Vendor Communication Plan, Performance Metrics, the FPDS-NG Data Quality Program, improving the Environmental Protection Agency's Acquisition System (EAS)/FPDS Validation Process, and the implementation of the Quality Assurance Program for Competition to Conduct Quarterly Reviews of Justifications for Other than Full and Open Competition (JOFOCs) and Limited Source Justifications (LSJs) between \$150,000 and \$650,000.

Questions concerning the information contained in this report may be referred to Susan Moroni, EPA's Agency Competition Advocate, at (202) 564- 4321 or by e-mail at moroni.susan@epa.gov.

INTRODUCTION

The Agency Competition Advocate (ACA) ensures that increasing competition remains a top priority within the EPA's Office of Acquisition Management, and all of the EPA buying activities in Washington, D.C., Cincinnati, Ohio, Research Triangle Park, North Carolina, nine regional procurement offices, and eleven laboratories around the country. The Agency continues to emphasize competition in the acquisition of its requirements, resulting in impressive savings to taxpayers and increasing the pool of potential contractors. Competition is of the utmost importance in our acquisition system, and this report will demonstrate how the EPA facilitates efficient and effective competitions under its procurements. This report details the role of the Agency Competition Advocate, the EPA's FY 2013 competition results, and actions underway to strengthen the Competition Advocacy Program at the EPA. In addition, this report contains recommendations for reinforcing the use of competition practices for strengthening the Agency's competitive environment.

ROLE OF THE AGENCY COMPETITION ADVOCATE

The EPA has been successful in conducting full and open competition by ensuring that all personnel involved in the procurement process, from identification of the requirement through final payment on the contract, work as a team to maximize competition. The ACA's primary responsibilities are to:

- Develop, direct, and maintain the competition program to ensure that competition initiatives are incorporated and implemented at all levels.
- Promote the use of and challenge barriers to full and open competition in all acquisitions.
- Identify and report opportunities and actions taken to achieve, and any conditions or actions which unnecessarily restrict the use of full and open competition.
- Ensure that oversight mechanisms are established to provide visibility on any issues or obstacles to obtaining competition.
- Ensure the competition is planned early in the acquisition process to minimize factors inhibiting full and open competition.
- Promote market research to identify competition potential in support of acquisition strategies before the procurement decision is irrevocably made.
- Ensure that acquisition plans maximize competition.
- Review and approve sole source actions exceeding \$650,000 and Determinations and Findings for exclusion of certain sources.

- Prepare and submit annual reports describing activities, new initiatives, and recommendations on improving competition.
- Serve as the EPA spokesperson for competition to industry, other Government agencies, and the EPA Program Offices.

AUTHORITIES/REQUIREMENTS FOR LIMITING COMPETITION

The Federal Acquisition Regulation (FAR) provides three distinct methods for limiting competition. First, FAR Subpart 6.3 – Other Than Full and Open Competition, provides the policies and procedures, and identifies the statutory authorities for contracting without providing for full and open competition. Second, FAR Subpart 8.405-6 – Limited Sources Justification and Approval, provides that orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when; only one source is capable of responding due to the unique or specialized nature of the work; the new work is a logical follow-on; or when an urgent and compelling need exist. Third, FAR Subpart 13.501 – Special documentation requirements, allows sole source (including brand name) acquisitions for certain commercial items. For the purpose of this report, these three methods for limiting competition will be uniformly referred to as sole-source actions. It is also worthy to note that there are some noncompetitive awards that require no further justification (e.g., awards to an 8(a) firm, public utility, or a source authorized or required by statute) and these actions are not included or addressed in this report.

The sole source actions that are submitted for the approval of the ACA are usually limited to those instances where, for example, the Agency had no other choice but to award on a noncompetitive basis if scientific objectives and Congressional mandates were necessary, when the public health and welfare were at stake, or when time was of the essence to alleviate an immediate danger. The EPA is an agency that is required to protect human health and the environment in the case of a terrorist attack or national emergency, and has issued class justifications to be prepared for these situations. These sole source vehicles are only to be utilized in rare circumstances when competition is not possible due to emergency health and environmental threats. With the availability of a document which can be invoked in a qualifying emergency, the EPA will not need to issue a new document at a point where it may be impossible.

The ACA, with the cooperation of the contracting and program office personnel, will take steps to ensure that there are no noncompetitive awards to continue on-going programs delayed due to poor advance planning and monitoring of current contracts.

The EPA will continue to strive to reduce noncompetitive acquisition situations. Under many of its programs, the EPA has significantly broadened the contractor base and provided opportunities for more companies to compete. The EPA's contracting and program office staff continue to work to increase competition and develop additional sources to satisfy the EPA's requirements. In some instances where an incumbent has repeatedly received follow-on contracts, additional sources have been developed by continuing to break out requirements and allowing the

incumbent and the prospective contractors to propose on only a single part of the requirement. By taking these actions, the Agency is developing sources and broadening its contractor base.

SPECIFIC AREAS IN WHICH COMPETITION HAS BEEN ENHANCED

The ACA has been referred to as the “Gate Keeper” for ensuring competition by the EPA’s Office of Inspector General. The ACA meets with the program office and contracting officer when any sole source action requires the review or approval of the ACA. In these meetings, the ACA asks what steps were taken or options considered prior to determining sole source, including how the program office and the contracting office will remove barriers to competition for future requirements. The contracting and program office staff have learned that they must fully justify any sole source actions and make the case that they are necessary in order for the ACA to consider approval. During FY 2013, there was only one sole source action over \$12.5 million which needed the approval of the Senior Procurement Executive (SPE).

Each year, the Director of the Office of Acquisition Management (OAM) and the Director of the Office of Small Business Programs (OSBP) jointly issue the Annual Call Memo, prepared by the ACA, requesting acquisition plans. The Annual Call Memo provides clear instructions and examples of the necessary information to help encourage competition. Also, the Annual Call Memo includes a specific deadline for when new requirements are to be submitted to the procurement offices. Many program offices have found this to be helpful in understanding the acquisition process and importance of meaningful acquisition planning. During Fiscal Year 2012, the ACA recommended in the annual competition report that the Annual Call Memo be issued during the second quarter of the Fiscal Year, instead of the third quarter. As a result, during Fiscal Year 2013, the Contract Management Manual (CMM) was revised by the Policy, Training, and Oversight Division (PTOD) to reflect this change. This will allow for ample time to conduct the acquisition planning meetings between OAM, OSBP, and the program offices during the third quarter of the fiscal year, and have the information regarding the upcoming procurements input into the Acquisition Forecast Database by the end of the third quarter before the end of the fiscal year workload crunch and well before the October 1 deadline each year.

Historically, OAM sponsored two Contractor Forums annually. Due to budgetary constraints, OAM has not been able to sponsor a Contractor Forum since November 9, 2011 when the event was held in Region 5, Chicago, IL, with over 200 people in attendance.

Several years ago, the previous ACA introduced the EPA staff to and encouraged the use of Fedbid.com (located on the internet at <http://www.fedbid.com>) which is a reverse auction site. Since that time, the use of Fedbid.com has contributed toward increasing competition for various types of products that many program offices thought were only available through limited sources.

- In FY 2013, the EPA’s use of Fedbid.com totaled 111 reverse auctions, with an average number of 10 bids per auction, 64% of the awards were made to small businesses, and we experience savings of 9% from the government estimate.

- In FY 2012, the EPA's use of Fedbid.com totaled 153 reverse auctions, with an average number of 12 bids per auction, 76% of the awards were made to small businesses, and we experienced savings of 6% from the government estimate.
- In FY 2011, the EPA's use of Fedbid.com totaled 145 reverse auctions, with an average number of 9 bids per auction, 58% of the awards going to small businesses, and savings of 8% from the government estimate.
- In FY 2010, the EPA's use of Fedbid.com totaled 104 reverse auctions, with an average number of 9 bids per auction, 43% of the awards going to small businesses, and savings of 3.6% from the government estimate.
- In FY 2009, the EPA's use of Fedbid.com totaled 73 reverse auctions, with an average number of 19 bids per auction, 39% of the awards going to small businesses, and savings of almost 3.2% from the government estimate.

The trend shows that the agency has been obtaining greater savings each fiscal year through the use of Fedbid.com. Although the usage and small business awards dropped slightly in FY13, presumably due to the agency's budgetary issues, there had been a consistent trend showing an increase in usage, an increase in small business awards, and increased savings over the previous four years on those buys completed using Fedbid.com. In the past, representatives from Fedbid.com were asked to come to EPA and conduct training sessions for the contracting staff. OAM will conduct an assessment to determine the need for Fedbid.com training on new features as well as refresher training.

The ACA monitors the EPA's dynamic real-time Forecast Database, which is on the Internet at <http://www.epa.gov/oam>. The Forecast Database contains detailed information on current and future procurement opportunities, including the contact person, due dates, statements of work, and other relevant information. The EPA's Forecast Database equips businesses with the information they need to effectively compete for Agency contracts. The Forecast Database has been used as a model by other agencies that are trying to enhance competition and has been recognized by companies interested in doing business with the EPA as an extremely valuable tool. The ACA has promoted aggressive efforts to ensure that the data is current, accurate and complete. The EPA publicizes opportunities up to three years in advance through the use of the Forecast Database on the EPA/OAM internet site. This helps to enhance competition by providing a location for vendors to learn about upcoming requirements well before the procurement process begins. Improvements to the EPA OAM Internet site have provided more user-friendly features and access to more information. These improvements continue to result in fewer telephone calls to contract specialists and contracting officers for information which is now easily assessable and readily available on the Internet. Also, these improvements to the above broaden communications between industry and the Government which enhances the potential for more competition. The EPA Administrator also utilizes the information contained in the Forecast Database when addressing audiences around the country. The ACA recommends that the Agency continues to maintain and utilize the Forecast Database.

COMPETITION DATA

During FY 2011, OFPP established a new Competition Report in FPDS-NG. Although this report derives from the old Competition Report, the significant difference is that the new

Competition Report does not record actions as competitive if fair opportunity was not given to the task orders when awarded under Agency Multiple Award Contracts (MAC). Under the previous Competition Report, if the original MAC was awarded competitively, then all resultant task orders were also considered and recorded as competitive. This is not the case with the new report which will be used for all future ACA Reports. During Fiscal Year 2013, EPA implemented a new initiative entitled, "Assess Multiple Award Contracts (MACs) Impact on Competition". The objective was to determine whether the Agency is following an effective process by clearly communicating its intent to provide fair opportunity to compete each task order, ensure that the technical evaluation criteria was clearly presented, ensure that decisions to award after competition were made properly and properly documented, ensure that the proper exceptions to competition were being cited, and that the awards were coded correctly in EAS and FPDS-NG. This initiative was started in Fiscal Year 2013; however, work will continue on this initiative into Fiscal Year 2014. This initiative will also inventory contracts coded as MACs in EAS to ensure they are truly MAC contracts (competing Task Orders) in order to get an accurate rate of competition.

The EPA implemented many new initiatives/strategies in FY 2012 for ensuring that its data is as accurate as possible. These strategies continued to be utilized in FY 2013. They include: establishment of competition-related Performance Metrics, the FPDS-NG Data Quality Program, improving the EAS/FPDS Validation Process, and the implementation of a Quality Assurance Program for Competition to Conduct Quarterly Reviews of JOFOCs and LSJs between \$150,000 and \$650,000. Each of these initiatives focus on ways to improve the agency's current process. Performance Metrics established the benchmarks and timeframes in which the different contracting standards were to be met and measured. The FPDS-NG Data Quality Program was established to ensure the timely, accurate, and complete collection and reporting of data entered into FPDS-NG. The initiative for the improvement of the EAS/FPDS Validation Process was established to ensure that the actions being awarded through EAS were being reported accurately in FPDS-NG. The initiative regarding the implementation of the Quality Assurance Program for Competition to Conduct Quarterly Reviews of JOFOCs and LSJs between \$150,000 and \$650,000 ensured that all JOFOCs and LSJs were properly posted in FedBizOpps and on the OAM website in a timely manner in accordance with the President's Transparency in Government Initiative.

As always, the EPA is committed to ensuring competition in new, current, and follow-on procurement opportunities as demonstrated by its high rate of competitive actions in FY 2013. In the FPDS-NG report dated December 18, 2013, 83% of the actions in FY 2013 were competitive, a four percent increase from FY 2012 (79%) and a six percent increase from FY 2011 (77%). The EPA has been recognized in the past by the OFPP as having some of the most effective practices for enhancing competition in the Federal Government, and we strive to increase our record each fiscal year.

ASSESSMENT OF COMPETITION PRACTICES

The Agency continued to enhance competition through the use of innovative procurement techniques. For all procurement opportunities other than small business set-asides, full and open competition was stressed as the most desirable method of acquisition and was pursued

aggressively. In assessing the state of competition practices at the EPA for FY 2013, the ACA utilized the format provided by OFPP in its letter dated May 31, 2007. The following details the results of this review based on responses provided from the EPA procurement offices.

A. Ensuring sufficient attention to the manner in which acquisitions are planned

The ACA and the procurement offices have taken numerous actions to ensure that there is sufficient attention being paid to the manner in which acquisitions are planned. It is clear that acquisition planning is one of the best ways to ensure competition. At the EPA, we utilize cross-functional teams in the acquisition planning process, which includes the contracting staff, the program office staff, and the OSBP staff. Detailed acquisition planning meetings are held with each individual customer to go over the next three year acquisition plans to determine strategies to enhance competition, including small business participation. At these planning meetings, the team discusses how competition will be sought and promoted. These planning meetings set forth strategy and identify and help prevent potential future noncompetitive awards. In most instances, all fiscal year requirements are being reviewed in the third quarter of the previous fiscal year to develop a total contract strategy for a particular technical program. Acquisition plans for large requirements consider, as appropriate, the comparative benefits of awarding a new contract versus placing an order under an existing contract by reviewing in-house capabilities and capacity on current contracts.

The EPA employs many market research techniques including publishing formal requests for information, querying government and commercial databases, counseling contractors on doing business with the EPA, holding pre-proposal conferences, and participating in events (such as outreach, matchmaking, etc.) with industry, other acquisition officials, and the program offices. Pre-proposal conferences provide an opportunity for potential offerors to familiarize themselves with the Government's requirement, encourage participation in the procurement, and provide a networking opportunity to establish subcontracting, mentoring, and/or teaming arrangements.

Each major acquisition involving a number of separate tasks is reviewed to determine the acquisition method best suited to enhance competition. This includes examining each task and determining whether to separate or combine them, depending on which method is most likely to generate the most competition. During FY 2013, the EPA did not process any actions that met the definition of contract bundling.

Specific initiatives from some of EPA's procurement offices are as follows:

On new pre-award packages, Cincinnati Procurement Operations Division (CPOD) closely reviewed the utilization history on their current contracts, and downsized the Independent Government Cost Estimate (IGCE) and solicitation if needed. As a result of budget decreases and changing priorities in the Agency, several of their contracts were rescoped downward to more closely align with the customer's true needs. Base periods and quantity options were not being utilized on some contracts, and so the solicitation IGCEs were developed using a more realistic level of effort (LOE) number. As these solicitations are issued, it is anticipated that a smaller, more realistic LOE requirement will enhance competition.

The agency's piloting of the FedConnect feature has resulted in advertisement of EPA requirements to a wider pool of contractors thus allowing for increased competition.

Region 2's acquisition strategy is to always seek to place an order under an existing contract, if feasible. This alternative is discussed between the Contracting Officer and the Project Officer, usually before the preparation of the Procurement Information Notice (PIN) package. EPA contracts that allow for placement of an order typically have been competed at the award stage and, as a result, offer fair and reasonable pricing. The same is true for contracts under GSA's Federal Supply Schedules (FSS) as well as Government-wide Agency contracts, such as NASA's Solutions for Enterprise-Wide Procurement (SEWP) Contracts. These contracts have the added benefit of allowing for further competition, on a streamlined basis, resulting in administrative savings to the Region.

Region 3 has been active with its customers in conducting more effective market research, defining our customer needs and preparing better statements of work. As an example, working in partnership with their Information Technology Branch, Region 3 completely rewrote a statement of work for help desk and other IT services, redefined the education and experience requirements, and through market research developed a better source list. The end result was that they enhanced competition and received significantly better pricing, roughly 20% savings. The contract has been in place for six months, and there has not been any noticeable reduction in the level of services being performed.

For large Regional acquisitions in Region 7, "Email blasts" were sent to help increase awareness of new solicitations and encourage firms to participate in the competition. A total of 9,179 emails were sent to a wide variety of different vendors based on the NAICS code and area of competition set-aside. These emails were pulled the same day from SAM.gov and were always sent within hours after the solicitation was posted. Also, in a further attempt to reach potential subcontractors not on SAM but located within the areas of Superfund site work, additional emails were sent to a 105 different business/contractor organization for inclusion in their newsletters. Such organizations included 11 different Chambers of Commerce, 57 Procurement Technical Assistance Centers (PTACs) within the Midwest, and business organizations such as the National Association of Women in Construction.

Region 7 reported that efforts to perform market research and award site specific contracts for remedial actions continue to maximize competition and to expand the vendor base and attain socio-economic goals. Region 7 provided maximum practicable opportunities for small business in prime contracting. In FY 2013, Region 7 achieved all 5 socioeconomic goals, an Agency first.

During FY 2013, Region 9 conducted pre-proposal conferences via the internet which led to many additional participants at the conference and enhanced competition on their requirements. This was a practice that they started in FY 2011. Other offices and regions have implemented this practice in FY 2013 as well. The contracting staff agency-wide utilizes sources sought synopses to determine appropriate contract types and ensure maximum consideration of small businesses. Acquisitions are posted in the EPA's Forecast Database and on our main website at <http://www.epa.gov/oam/> to maximize competition. Upon issuance of a new solicitation, the

contracting officers routinely send e-mail notifications to sources identified by the program office and sources responding to the synopsis to ensure maximum response from contractors.

The Remedial Action Framework (RAF) is a program wide acquisition planning initiative. The purpose is to update the overarching acquisition plan for all contracts awarded to support the Superfund Remedial Program on a nationwide basis. The Remedial Acquisition Framework Group (RAFG) began work in November 2012. The effort to examine remedial contracting on a national level was initiated to identify cost savings in a tightening fiscal climate. The goal was to look for efficiencies in the use of both our internal resources and external resources. After the kick-off of this national effort, staff from headquarters Office of Acquisition Management (OAM) and Office of Superfund Remediation and Technology Innovation (OSRTI) visited all of the regions to better understand the current remedial contracting situation throughout the nation. Some concerns identified were multiple contracts with the same company with varying reporting and management requirements and inconsistencies among the regional contracts. After visiting all of the regions, a meeting was held of the RAFG to draft the RAF. Following this meeting, several committees were established to work on the details related to the new RAF. However, as work continued by these committees, issues were identified that the current proposed framework did not resolve. In addition, a Request for Information was issued to obtain industry input on parts of the potential RAF. Input was received in September 2013. After considering industry input and the issues identified by the committees, it was determined that the proposal put forth by the RAFG required revision. A new proposal was drafted in October 2013. The RAFG met in December 2013 and made progress towards a revised acquisition strategy. Work will continue under this acquisition planning initiative well into Fiscal Year 2014.

The Region 1 Office of Contracts and Procurement is taking an active role in assisting in the development of the RAF, and an even more active role in developing the statements of work for the program. Region 1 is working with the Program Offices and OAM to allow for task order competition under the framework which was previously not available. Also, in having an active role in the SOW development, they are seeing how the SOW development will allow for contractors that previously had not been involved in the Superfund Remedial Program to compete for the services this time around, thus increasing competition.

Under the Emergency Response and Rapid Services (ERRS) Program, Superfund RCRA Regional Procurement Operations Division (SRRPOD) plans on developing and issuing a sources sought and request for information to the ERRS Contracts in FY 2014. SRRPOD would like to keep the contracts with small businesses and maintain the multiple award acquisition strategy. They will also seek contractor information regarding the fair opportunity process among other topics.

In addition, Headquarters Procurement Operations Division (HPOD) has developed a new enterprise-wide strategic sourcing program to perform structured, methodical spend analysis to its requirements in order to ensure the optimum acquisition approach is utilized. This initiative should increase competition, lead to many efficiencies with combined "buying power", and achieve the lowest possible prices.

As a result of last fiscal year's Balanced Scorecard Initiative entitled "Optimize EPA Vendor Communication Plan", the Policy, Training and Oversight Division provided additional guidance on communicating with industry. The benefit to regularly updating the vendor communication plan is that it will assist in legal and effective communication with industry as follows:

- 1) Develop better performance work statement;
- 2) Reduce risk of protest;
- 3) Reduce lead times;
- 4) Assist in reviewing "best value"; and
- 5) Enhance the overall acquisition process.

B. Using competition in an effective manner

The EPA is proud of its efforts to ensure clear statements of work that provide sufficient information, so the companies may make informed business decisions on whether to respond and perform the due diligence necessary to propose the best solutions. When appropriate, the EPA also publishes proposed requirements for public comment prior to issuance of a solicitation. The program offices have been instructed that their written requirements must be performance based. Most often the performance measures focus on the aspects of quality, responsiveness, timeliness, and cost. Additionally, quality assurance surveillance plans are put in place to monitor performance. Competition is enhanced through the use of performance-based contracting, as it requires clear and measurable contract performance standards in terms of quality, quantity, and timeliness.

The EPA considers the complexity, commerciality, availability, and urgency in establishing due dates for proposals. All buying offices work to allow the maximum number of days for proposals to increase competition and encourage contractors to provide quality proposals that would allow for a best value award based on initial offers. It is the intent of the EPA to award based on initial offers as stated in solicitations issued by the agency.

During the evaluation process, the EPA takes into account recent and relevant past performance, including quality, timeliness, and cost control. During FY 2013, the EPA relied on the Navy's Contractor Performance Assessment Reporting System to obtain past performance information on vendors. The EPA annually holds "stand down" days to remind Contracting Officers to input and update the information on their existing contracts in the system so that current and relevant information is available for upcoming procurement opportunities.

OAM has recognized the need for emphasis to be placed on the issue of multiple award contracts in the future. OAM plans to develop a performance measure to track orders under multiple award contracts that would include self assessment on an annual basis. This would include identifying the agency's data regarding multiple award contracts, the need for future analysis, and the necessary corrective actions such as providing the contracting staff with guidance regarding this issue as well as restructuring of contracts as necessary.

CPOD increased the Office of Water's usage of multiple award, Indefinite Delivery Indefinite Quantity Contracts as appropriate to allow for more competition and better pricing under task orders for the office. CPOD continued to emphasize to their program offices the importance of

competing the task orders under multiple award contracts. Concentration was placed on the FAR 16.505 and the Fair Opportunity requirements. The Office of Water targeted the task orders issued during FY 2013 to ensure that requirements under their multiple award contracts were well developed, established reasonable and fair technical evaluation criteria, and that thorough Technical Evaluation Panel (TEP) reports were developed. CPOD created a website for the Task Orders/Purchase Orders (TOPOs) that included sample TEC/TPI to consider, streamlined the evaluation forms, and started doing TEP briefings with the panels prior to the conduct of the consensus meetings.

CPOD reported that maintenance agreements for laboratory test equipment are typically sole source requirements; however, third party equipment maintenance management companies are often able to provide a competitive quotation for the necessary service, yet still obtain an OEM factory-certified maintenance technician to perform the maintenance. Additional benefits include the maintenance management companies most often classified as small businesses, and most are GSA schedule holders. Not only is competition increased, but a streamlined FSS acquisition approach is also used.

HPOD continues to perform and emphasize collaborative acquisition planning, market research, sources sought notices, and well constructed solicitations to elicit the best competition possible. Pre-solicitation conferences are considered more often when additional outreach is required to promote competition. Multiple award scenarios will continue to be considered when re-competing single award contracts. National Procurement Service Center (NPSC) increased competition in FY 2013 through the use of its Information Technology Solutions – Business Information Strategic Support 2 (ITS-BISS) multiple award contract. Under ITS-BISS, seven (7) awardees competed for the numerous task orders. During FY 2013, one hundred and ten (110) task orders were competitively awarded. NPSC will continue to utilize set-asides as much as possible to support small business in FY14. Additionally, the seat management CTS contract ended in FY 2012, and was re-competed into three separate procurements. The first procurement for Desktop Services was competed on a national basis and awarded to EZ-Tech in July 2012. The managed print services were competitively awarded in April of 2013. The third procurement is the IT Hardware which is due to be awarded sometime in FY14 February/March time frame. Further, both Information Resource Management Procurement Service Center (IRMPSC) and NPSC staff plan to participate again in the Agency's Vendor Day event to meet with industry and support Office of Environment Information (OEI) IT requirements.

The HPOD IRMPSC further enhanced competition in FY 2013 by continuing to leverage the SES3 multiple award BPAs. IRMPSC placed one (1) task order across multiple agency offices on the SES3 BPAs. The HPOD National Procurement Service Center (NPSC) also did a complete small business set aside for the agency wide procurement of IT Hardware in FY13.

Competitive Blanket Purchase Agreements were previously awarded to seven vendors for IT Support Services, known as ITS-EPA-II. To ensure maximum competition for each ITS-EPA II Task Order in FY13, Research Triangle Park Procurement Operations Division (RTPPOD) held quarterly Vendor Conferences where new projects were discussed in advance and vendor input was sought. Additionally, as time permitted, draft Performance Work Statements were published on RTPPOD's website so that these seven vendors could review, ask questions and provide comments well in advance of the Task Order Request for Quotation being published.

RTPPOD's OAR Service Center implemented several actions designed to enhance competition for their customers' requirements. Examples include:

- Previous solicitations for ORIA's contract for the Support for Policy Development, Analysis and Information Development had been competed using full and open competitive procedures, but had resulted in only one proposal being submitted. After exhaustive market research, the most recent solicitation was issued as a small-business set aside, and three small business proposals were received. Contract EPD14001, with a maximum value of \$27.4M, was awarded to a woman-owned small business.
- The previous solicitation for OAQPS's Emission Inventory Support contract five years ago resulted in only a single proposal. After extensive market research, including a sources-sought announcement that resulted in 12 responses, three competitive proposals were received from small businesses for the follow-on contract.
- Although Contract EPD13011 for RadNet Spare Parts was awarded on a sole-source basis to General Atomics, the number of sole-source parts in the contract was reduced from 34 to 11 compared to the previous contract, resulting in increased competition for the remaining 23 spare parts.
- Contract EPD12003 for RadNet Maintenance includes tasking for the contractor to explore alternate sources for the spare parts, other than the sole-source parts made by the manufacturer of the RadNet monitors.

FY 2013 also brought continued streamlining effort to the formal competition of task orders under Region 2's ERRS multiple award contracts, pursuant to the Fair Opportunity provision under FAR 16.505(b)(1)(iii)(B). Region 2 provided On-Scene Coordinators with a set of sample criteria that can be used to evaluate proposals and most fair opportunity notices now include five criteria that address location of labor and resources, cost control efforts, technical expertise and experience, and past performance. As a result, the contractor's "proposals" have been more meaningful and the On-Scene Coordinators are beginning to see where these efforts may provide some value in selecting the best contractor for work at a particular site. The fair opportunity competitions have resulted in most new work going to one contractor and a renewed sense of customer service by the contractor that has not been as successful. This process should ultimately lead to superior performance by both ERRS contractors.

Region 5 and Region 8 recently awarded Blanket Purchase Agreements for the Water Division. Of the five awards made by Region 5, three were made to small businesses and two to large businesses. Of the five contracts awarded by Region 8, three were made to small businesses, one to a minority educational institution and one to a large businesses. Task orders will be competitively awarded amongst their applicable five contractors. Region 5 also awarded the first site specific contract for long term remedial action work which was competitively awarded as a small business set-aside.

As part of the Balanced Scorecard Initiative for the implementation of the Contract Management Assessment Program which included the implementation of the Performance Measurement and Management Program guide, it:

- 1) Established and implemented internal controls
- 2) Reviewed OAM POD/Regional self assessment surveys
- 3) Conducted peer reviews.

The results from the activities above were and will continue to be analyzed to identify best practices, trends, skill gaps, etc. and shared with the acquisition community to improve the agency's acquisition function.

C. Emphasizing sound contract management and oversight

The EPA ensures that properly trained contracting officer representatives (COR) are designated for contracts before contract performance begins. The requirements to be a COR are listed in the EPA policy guidance. OAM provides regular training and maintains the database of certified CORs, and the Contracting Officers ensure that proposed modifications are within the scope of the contract or order. In accordance with Agency policy, CORs are appointed based on FAC-COTR certification requirements.

PTOD and CPOD played an active part in the COR policy changes in FY 2013 which should enhance the ability to nominate properly trained CORs.

In addition, HPOD has fully implemented an internal controls program that emphasizes and ensures consistent high quality contract management and oversight through continuous reviews of HPOD's contracting activities.

In Fiscal Year 2011, OAM implemented a Balanced Scorecard (BSC) Performance Measurement and Management Program (PMMP) as the methodology for assessing the Agency's acquisition related business functions. As part of the PMMP, OAM established the Contract Management Assessment Program (CMAP) which implemented an objective, systematic approach toward assessing achievements against either established OAM or Agency Strategic Goals. Through the utilization of the CMAP, the Agency is better positioned to strengthen its acquisition systems and its workforce. The intended result is to establish and maintain a world class procurement operation at EPA. EPA conducted four Contract Management Assessment Program (CMAP) Reviews during Fiscal Year 2013 at the following four procurement offices:

Region 7 – October 15-19, 2012 (38 contract files were reviewed which equates to 6% of total awards)

Region 3 – December 10-14, 2012(64 contract files were reviewed which equates to 25% of total awards)

Region 1 - May 13-17, 2013 (33 contract files were reviewed which equates to 100% of total awards)

CPOD – July 22-26, 2013 (61 contract files were reviewed which equates to 20% of total awards)

The ACA review of the CMAP peer reports completed to date (Fiscal Year 2012 and Fiscal Year 2013) has not identified any systemic issues that adversely affected the agency's competition program during Fiscal Year 2013.

TRENDS ON ORDERS OVER \$1 MILLION

There are few trends in competition on orders over \$1 million as a result of the EPA's commitment to competition. The orders that were identified demonstrated that they were conducted with sufficient time to allow for competitive offers to be received and to promote competition. In one instance, the Contracting Officer allowed 10 days for offers and received 2 offers, another Contracting Officer allowed 7 days and received 5 offers, while in another situation the Contracting Officer allowed 21 days for offers and 3 offers were received. It appears that the Contracting Officers are making good judgments on the number of days needed for their particular requirements depending on the level of complexity.

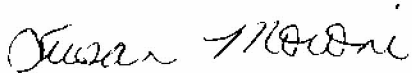
SUMMARY & RECOMMENDATIONS

The EPA will continue to be one of the top agencies leading competition success as we continue our aggressive acquisition planning efforts by implementing creative acquisition processes that expand competition, ensuring there are clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's dynamic real-time Forecast Database. The following actions will be pursued in FY 2014 and beyond to help improve upon strong EPA competitive processes.

1. Issuance of the Annual Call Memo by the end of the second quarter of each fiscal year. This should encourage all parties to start their acquisition planning efforts early as well as to ensure that all agency requirements are posted in the Acquisition Forecast Database before October 1 of each year.
2. The ACA will continue to support opportunities for vendor outreach by providing OAM staff to speak at and assist with the Office of Small Business Programs Counseling Sessions (four or five per year), the Office of Environmental Information's Industry Day, and the Annual Government Procurement Conference in which the OAM staff assists OSBP man the EPA Booths and participate in one-on-one sessions with companies to improve communications with industry and to encourage competition and help build a stronger competition base for future procurements.
3. The ACA will work with PTOD on establishing additional training opportunities on Fedbid.com in FY 2014 to encourage its use as a tool for competition for supplies and lab equipment due to its continued success at increasing competition, small business participation, and government savings if the assessment/survey shows that the staff is interested in training on the new features of the system and/or refresher training.
4. The ACA will work to maintain and promote the use of the Forecast Database to ensure the data is current, accurate, and complete.

5. The ACA will manage the quality assurance program for competition by doing quarterly reviews to ensure that Contracting Officers are posting JOFOCs and LSJs between \$150,000 and \$650,000 since these actions do not require the ACA's approval.
6. The ACA will work with the Information Technology Service Center, the OAM Division Directors, and the Regional Acquisition Managers, as necessary, on an FPDS ad hoc report regarding sole source actions over \$650K. This should ensure that all sole source actions over \$650K are correctly approved by the ACA by each of the Divisions and Regions and properly posted by the Contracting Officers once the contracts are awarded.

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U.S. Environmental Protection Agency
Office of Acquisition Management

Competition Advocacy Program

**Protecting Human Health & Safeguarding the Natural Environment
Through Innovative Solutions Realized From Creative and Competitive Contracting
Methodologies**

**Fiscal Year 2012
Agency Competition Advocate (ACA) Report**

EXECUTIVE SUMMARY

The Agency's Competition Advocate (ACA) is pleased to present this "state of competition" assessment of practices, achievements and future plans to continue increasing competition on the EPA's procurement opportunities. The EPA is committed to promoting competition on all new, current, and follow-on procurement opportunities as demonstrated by our high rate of competitive dollars in Fiscal Year (FY) 2012. In the Federal Procurement Data System-Next Generation (FPDS-NG) report dated January 7, 2013, the EPA awarded 79% of all dollars competitively in FY 2012, up by 2% from FY 2011. It should be noted that the EPA was recognized in FY 2008 by the Office of Federal Procurement Policy (OFPP) as having some of the most effective practices for enhancing competition in the Federal Government. The EPA continues to utilize these practices each year to continue to increase competition on new, current, and follow-on procurement opportunities and strives to always look for ways to improve its competitive record.

The EPA's success regarding competition is largely attributable to our aggressive advanced acquisition planning efforts, implementing creative acquisition processes that expand competition, ensuring clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's Acquisition Forecast Database. During FY 2012, the EPA also implemented many successful strategies for increasing competition, which were the result of the Balanced Scorecard Initiatives. The BSC Initiatives included: the implementation of the Contract Management Assessment Program, the establishment of the Vendor Communication Plan, Performance Metrics, the FPDS-NG Data Quality Program, improving the Environmental Protection Agency's Acquisition System (EAS)/FPDS Validation Process, and the implementation of the Quality Assurance Program for Competition to Conduct Quarterly Reviews of Justifications for Other than Full and Open Competition (JOFOCs) and Limited Source Justifications (LSJs) between \$150,000 and \$650,000.

If you have any questions concerning this report, please contact Susan Moroni, EPA's Agency Competition Advocate, at (202) 564- 4321 or by e-mail at moroni.susan@epa.gov.

INTRODUCTION

The Agency Competition Advocate (ACA) ensures that increasing competition remains a top priority within the EPA's Office of Acquisition Management, and all of the EPA buying activities in Washington, D.C., Cincinnati, Ohio, Research Triangle Park, North Carolina, nine regional procurement offices, and eleven laboratories around the country. The Agency continues to emphasize competition in the acquisition of its requirements, resulting in impressive savings to taxpayers and increasing the pool of potential contractors. Competition is of the utmost importance in our acquisition system, and this report will demonstrate how the EPA facilitates efficient and effective competitions under its procurements. This report details the EPA's FY 2012 competition results, the role of the Agency Competition Advocate, and actions underway to strengthen the Competition Advocacy Program at the EPA. In addition, this report contains recommendations for reinforcing the use of competition practices for strengthening the Agency's competitive environment.

SPECIFIC AREAS IN WHICH COMPETITION HAS BEEN ENHANCED

The ACA has been referred to as the "Gate Keeper" for ensuring competition by the EPA's Office of Inspector General. The ACA meets with the program office and contracting officer when any sole source action requires the review or approval of the ACA. In these meetings, the ACA asks what steps were taken or options considered prior to determining sole source, including how the program office and the contracting office will remove barriers to competition for future requirements. The ACA has had significant success this year in reducing the number of sole source contract actions and/or the value of the actions approved. During FY 2012, the ACA approved eight Justifications for Other than Full and Open Competition (JOFOCs) and five Limited Source Justifications (LSJs). In FY 2011, the ACA approved ten Justifications for Other than Full and Open Competition (JOFOCs) and three Limited Source Justifications (LSJs). In FY 2010, the ACA approved thirteen JOFOCs and four LSJs which represented approximately half the number of sole source actions that were approved by her predecessor in previous years. The contracting and program office staff have learned that they must fully justify any sole source actions and make the case that they are necessary in order for the ACA to consider approval.

During FY 2012, there were no sole source actions over \$12.5 million which needed the approval of the Senior Procurement Executive (SPE).

Each year, the Director of the Office of Acquisition Management (OAM) and the Director of the Office of Small Business Programs (OSBP) jointly issue the Annual Call Memo, prepared by the ACA, requesting acquisition plans. The Annual Call Memo provides clear instructions and examples of the necessary information to help encourage competition. Also, the Annual Call Memo includes a specific deadline for when new requirements are to be submitted to the procurement offices. Many program offices have found this to be helpful in understanding the acquisition process and importance of meaningful acquisition planning. The ACA believes that the agency would be better served if the Annual Call Memo was issued earlier in the Fiscal Year. The ACA recommends the issuance of the Annual Call Memo by the end of February each year instead of April as required by the Contract Management Manual (CMM). The ACA also recommends that the CMM be changed to have the issuance date changed to the end of February

of each year. This will allow for ample time to conduct the acquisition planning meetings between OAM, OSBP, and the program offices during the third quarter of the fiscal year, and have the information regarding the upcoming procurements input into the Acquisition Forecast Database by the end of the third quarter before the end of the fiscal year workload crunch and well before the October 1 deadline each year.

The ACA normally conducts two Contractor Forums per year. During FY 2012, however, numerous continuing resolutions created budget uncertainty. The ACA conducted one Contractor Forum in FY 2012. The EPA Contractor Forums have been noted by many companies as providing excellent information on doing business with the EPA and the Federal Government in general. The Contractor Forums encourage competition by bringing the EPA personnel together with small businesses, large businesses, and organizations interested in contracting with the EPA, and orientates prospective contractors on the goals and objectives of the EPA's program and staff offices. The Contractor Forum gives contractors a venue in which to talk with the EPA about future opportunities, and for the EPA to provide information to attendees on how to do business with the agency. On November 9, 2011, the Fall Contractor Forum was held in Chicago, IL. Approximately 200 contractors participated in this event. The agenda included presentations from the EPA leadership representing the host region, Region Five, the Office of Administration Resources Management (OARM), the Office of Acquisition Management (OAM), and the Office of Small Business Programs (OSBP). Discussions held were on Sources Sought presented by the Regional Acquisition Manager from Region 5, a Procurement Policy Update from the Manager of the Acquisition Policy and Training Service Center, a panel discussion by three of the OAM Division Directors regarding Organizational Conflict of Interest, and an update on Contracts 2010 from the Superfund Division Director.

One-on-One Counseling sessions were held in the afternoon for small businesses. This gave the small business community the opportunity to meet with the EPA Program Staff, the EPA Contracting Staff, and the EPA Prime Contractors in an informal setting. These sessions are always very popular and very well attended by the small business community. There were a total of 312 fifteen minute slots available (twenty-six tables of counselors). The evaluations received from the Contractor Forum were extremely favorable and appreciative to the EPA for holding such an event. The ACA recommends conducting one Contractor Forums per fiscal year, budget permitting.

Several years ago, the previous ACA introduced the EPA staff to and encouraged the use of Fedbid.com (located on the internet at <http://www.fedbid.com>) which is a reverse auction site. Since that time, the use of Fedbid.com has contributed toward increasing competition for various types of products that many program offices thought were only available through limited sources.

- In FY 2012, the EPA's use of Fedbid.com totaled 153 reverse auctions, with an average number of 12 bids per auction, 76% of the awards were made to small businesses, and we experienced savings of 6% from the government estimate.
- In FY 2011, the EPA's use of Fedbid.com totaled 145 reverse auctions, with an average number of 9 bids per auction, 58% of the awards going to small businesses, and savings of 8% from the government estimate.

- In FY 2010, the EPA's use of Fedbid.com totaled 104 reverse auctions, with an average number of 9 bids per auction, 43% of the awards going to small businesses, and savings of 3.6% from the government estimate.
- In FY 2009, the EPA's use of Fedbid.com totaled 73 reverse auctions, with an average number of 19 bids per auction, 39% of the awards going to small businesses, and savings of almost 3.2% from the government estimate.

The trend shows that the agency is utilizing Fedbid.com more each year with greater savings and increased small business awards. In the past, representatives from Fedbid.com were asked to come to EPA and conduct training sessions for the contracting staff. Due to budgetary issues, OAM is not hiring new personnel. OAM will conduct an assessment to determine the need for Fedbid.com refresher training.

The ACA monitors the EPA's dynamic real-time Forecast Database, which is on the Internet at <http://www.epa.gov/oam>. The Forecast Database contains detailed information on current and future procurement opportunities, including the contact person, due dates, statements of work, and other relevant information. The EPA's Forecast Database equips businesses with the information they need to effectively compete for Agency contracts. The Forecast Database has been used as a model by other agencies that are trying to enhance competition and has been recognized by companies interested in doing business with the EPA as an extremely valuable tool. The ACA has promoted aggressive efforts to ensure that the data is current, accurate and complete. The EPA publicizes opportunities up to three years in advance through the use of the Forecast Database on the EPA/OAM internet site. This helps to enhance competition by providing a location for vendors to learn about upcoming requirements well before the procurement process begins. Improvements to the EPA OAM Internet site have provided more user-friendly features and access to more information. These improvements continue to result in fewer telephone calls to contract specialists and contracting officers for information which is now easily assessable and readily available on the Internet. Also, these improvements to the above broaden communications between industry and the Government which facilitates more competition. The EPA Administrator also utilizes the information contained in the Forecast Database when addressing audiences around the country. The ACA recommends that the Forecast Database remains a living document that is updated by the cognizant Contracting Officers as appropriate and monitored by the ACA at least quarterly to ensure the data is current, accurate, and complete.

COMPETITION DATA

During FY 2011, OFPP established a new Competition Report in FPDS-NG. Although this report derives from the old Competition Report, the significant difference is that the new Competition Report does not record actions as competitive if fair opportunity was not given to the task orders when awarded. Under the old Competition Report, if the original contract was awarded competitively, then all resultant task orders were also considered and recorded as competitive. This is not the case with the new report which will be used for all future ACA Reports. As always, the EPA is committed to ensuring competition in new, current, and follow-on procurement opportunities as demonstrated by its high rate of competitive actions in FY 2012. In the FPDS-NG report dated January 7, 2013, 79% of the actions in FY 2012 were competitive,

a two percent increase from FY 2011. The EPA has been recognized in the past by the OFPP as having some of the most effective practices for enhancing competition in the Federal Government and we strive to increase our record each fiscal year.

The EPA implemented many new initiatives/strategies for ensuring that its data is as accurate as possible. They include: establishment of Performance Metrics, the FPDS-NG Data Quality Program, improving the EAS/FPDS Validation Process, and the implementation of a Quality Assurance Program for Competition to Conduct Quarterly Reviews of JOFOCs and LSJs between \$150,000 and \$650,000. Each of these initiatives focus on ways to improve the agency's current process. Performance Metrics established the benchmarks and timeframes in which the different contracting standards were to be met and measured. The FPDS-NG Data Quality Program was established to ensure the timely, accurate, and complete collection and reporting of data entered into FPDS-NG. The initiative for the improvement of the EAS/FPDS Validation Process was established to ensure that the actions being awarded through EAS were being reported accurately in FPDS-NG. The initiative regarding the implementation of the Quality Assurance Program for Competition to Conduct Quarterly Reviews of JOFOCs and LSJs between \$150,000 and \$650,000 ensured that all JOFOCs and LSJs were properly posted in FedBizOpps and on the OAM website in a timely manner in accordance with the President's Transparency in Government Initiative.

ROLE OF THE AGENCY COMPETITION ADVOCATE

The EPA has been successful in conducting full and open competition by ensuring that all personnel involved in the procurement process, from identification of the requirement through final payment on the contract, work as a team to maximize competition. The ACA's primary responsibilities are to:

- Develop, direct, and maintain the competition program to ensure that competition initiatives are incorporated and implemented at all levels.
- Promote the use of and challenge barriers to full and open competition in all acquisitions.
- Identify and report opportunities and actions taken to achieve, and any conditions or actions which unnecessarily restrict the use of full and open competition.
- Ensure that oversight mechanisms are established to provide visibility on any issues or obstacles to obtaining competition.
- Ensure the competition is planned early in the acquisition process to minimize factors inhibiting full and open competition.
- Promote market research to identify competition potential in support of acquisition strategies before the procurement decision is irrevocably made.
- Ensure that acquisition plans maximize competition.

- Review and approve sole source actions exceeding \$650,000 and Determinations and Findings for exclusion of certain sources.
- Prepare and submit annual reports describing activities, new initiatives, and recommendations on improving competition.
- Serve as the EPA spokesperson for competition to industry, other Government agencies, and the EPA Program Offices.

ACTIONS THAT LIMIT COMPETITION

The Federal Acquisition Regulation (FAR) provides three distinct methods for limiting competition. First, FAR Subpart 6.3 – Other Than Full and Open Competition, provides the policies and procedures, and identifies the statutory authorities for contracting without providing for full and open competition. Second, FAR Subpart 8.405-6 – Limited Sources Justification and Approval, provides that orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when; only one source is capable of responding due to the unique or specialized nature of the work; the new work is a logical follow-on; or when an urgent and compelling need exist. Third, FAR Subpart 13.501 – Special documentation requirements, allows sole source (including brand name) acquisitions for certain commercial items. For the purpose of this report, these three methods for limiting competition will be uniformly referred to as sole-source actions. It is also worthy to note that there are some noncompetitive awards that require no further justification (e.g., awards to an 8(a) firm, public utility, or a source authorized or required by statute) and these actions are not included or addressed in this report.

The sole source actions that are submitted for the approval of the ACA are usually limited to those instances where, for example, the Agency had no other choice but to award on a noncompetitive basis if scientific objectives and Congressional mandates were necessary, when the public health and welfare were at stake, or when time was of the essence to alleviate an immediate danger. The EPA is an agency that is required to protect human health and the environment in the case of a terrorist attack or national emergency, and has issued class justifications to be prepared for these situations. These sole source vehicles are only to be utilized in rare circumstances when competition is not possible due to emergency health and environmental threats. With the availability of a document which can be invoked in a qualifying emergency, the EPA will not need to issue a new document at a point where it may be impossible.

The ACA, with the cooperation of the contracting and program office personnel, will take steps to ensure that there are no noncompetitive awards to continue on-going programs delayed due to poor advance planning and monitoring of current contracts.

The EPA will continue to strive to reduce noncompetitive acquisition situations. Under many of its programs, the EPA has significantly broadened the contractor base and provided opportunities for more companies to compete. The EPA's contracting and program office staff continue to work to increase competition and develop additional sources to satisfy the EPA's requirements.

In some instances where an incumbent has repeatedly received follow-on contracts, additional sources have been developed by continuing to break out requirements and allowing the incumbent and the prospective contractors to propose on only a single part of the requirement. By taking these actions, the Agency is developing sources and broadening its contractor base.

ASSESSMENT OF COMPETITION PRACTICES

The Agency continued to enhance competition through the use of innovative procurement techniques. For all procurement opportunities other than small business set-asides, full and open competition was stressed as the most desirable method of acquisition and was pursued aggressively. In assessing the state of competition practices at the EPA for FY 2012, the ACA utilized the format provided by OFPP in its letter dated May 31, 2007. The following details the results of this review based on responses provided from the EPA procurement offices.

A. Ensuring sufficient attention to the manner in which acquisitions are planned

The ACA and the procurement offices have taken numerous actions to ensure that there is sufficient attention being paid to the manner in which acquisitions are planned. It is clear that acquisition planning is one of the best ways to ensure competition. At the EPA, we utilize cross-functional teams in the acquisition planning process, which includes the contracting staff, the program office staff, and the OSBP staff. Detailed acquisition planning meetings are held with each individual customer to go over the next three year acquisition plans to determine strategies to enhance competition, including small business participation. At these planning meetings, the team discusses how competition will be sought and promoted. These planning meetings set forth strategy and identify and help prevent potential future noncompetitive awards. In most instances, all fiscal year requirements are being reviewed in the third quarter of the previous fiscal year to develop a total contract strategy for a particular technical program. Acquisition plans for large requirements consider, as appropriate, the comparative benefits of awarding a new contract versus placing an order under an existing contract by reviewing in-house capabilities and capacity on current contracts.

The EPA employs many market research techniques including publishing formal requests for information, querying government and commercial databases, counseling contractors on doing business with the EPA, holding pre-proposal conferences, and participating in events (such as outreach, matchmaking, etc.) with industry, other acquisition officials, and the program offices. Pre-proposal conferences provide an opportunity for potential offerors to familiarize themselves with the Government's requirement, encourage participation in the procurement, and provide a networking opportunity to establish subcontracting, mentoring, and/or teaming arrangements.

During FY 2012, Region 9 conducted pre-proposal conferences via the internet which led to many additional participants at the conference and enhanced competition on their requirements. This was a practice that they started in FY 2011. Other offices and regions have implemented this practice in FY 2012 as well. The contracting staff agency-wide utilizes sources sought synopses to determine appropriate contract types and ensure maximum consideration of small businesses. Acquisitions are posted in the EPA's Forecast Database and on our main website at <http://www.epa.gov/oam/> to maximize competition. Upon issuance of a new solicitation, the

contracting officers routinely send e-mail notifications to sources identified by the program office and sources responding to the synopsis to ensure maximum response from contractors.

Each major acquisition involving a number of separate tasks is reviewed to determine the acquisition method best suited to enhance competition. This includes examining each task and determining whether to separate or combine them, depending on which method is most likely to generate the most competition. During FY 2012, the EPA did not process any actions that met the definition of contract bundling.

Contracts 2010 is a Superfund program acquisition planning initiative. The “One EPA” effort involves four AAships (Office of Solid Waste and Emergency Response, OARM, Office of the Administrator, Office of Enforcement and Compliance Assurance) from 6 offices (OAM, OSBP, Office of Site Remediation Enforcement, Office of Superfund Remediation and Technology Innovation, Office of Emergency Management, Federal Facilities Restoration and Reuse Office) implementing Comprehensive Environmental Response, Compensation, and Liability Act with a shared purpose to update the overarching acquisition plan for all contracts awarded to support Superfund programs.

In addition, Headquarters Procurement Operations Division (HPOD) has developed a new enterprise-wide strategic sourcing program to perform structured, methodical spend analysis to its requirements in order to ensure the optimum acquisition approach is utilized. This initiative should increase competition, lead to many efficiencies with combined “buying power”, and achieve the lowest possible prices.

Cincinnati Procurement Operations Division (CPOD) utilized the new Acquisition Planning Teams (APT) and the CPOD Acquisition Strategy and Knowledge (ASK) training initiative.

As a result of a Balanced Scorecard Initiative entitled “Optimize EPA Vendor Communication Plan”, the Policy, Training and Oversight Division provided additional guidance on communicating with industry. The benefit to regularly updating the vendor communication plan is that it will assist in legal and effective communication with industry as follows:

- 1) Develop better performance work statement;
- 2) Reduce risk of protest;
- 3) Reduce lead times;
- 4) Assist in reviewing “best value”; and
- 5) Enhance the overall acquisition process.

B. Using competition in an effective manner

The EPA is proud of its efforts to ensure clear statements of work that provide sufficient information, so the companies may make informed business decisions on whether to respond and perform the due diligence necessary to propose the best solutions. When appropriate, the EPA also publishes proposed requirements for public comment prior to issuance of a solicitation. The program offices have been instructed that their written requirements must be performance based. Most often the performance measures focus on the aspects of quality, responsiveness, timeliness,

and cost. Additionally, quality assurance surveillance plans are put in place to monitor performance. Competition is enhanced through the use of performance-based contracting, as it requires clear and measurable contract performance standards in terms of quality, quantity, and timeliness.

The EPA considers the complexity, commerciality, availability, and urgency in establishing due dates for proposals. All buying offices work to allow the maximum number of days for proposals to increase competition and encourage contractors to provide quality proposals that would allow for a best value award based on initial offers. It is the intent of the EPA to award based on initial offers as stated in solicitations issued by the agency.

During the evaluation process, the EPA takes into account recent and relevant past performance, including quality, timeliness, and cost control. During FY 2012, the EPA relied on the Navy's Contractor Performance Assessment Reporting System to obtain past performance information on vendors. The EPA annually holds "stand down" days to remind Contracting Officers to input and update the information on their existing contracts in the system so that current and relevant information is available for upcoming procurement opportunities.

OAM has recognized the need for emphasis to be placed on the issue of multiple award contracts in the future. OAM plans to develop a performance measure to track orders under multiple award contracts that would include self assessment on an annual basis. This would include identifying the agency's data regarding multiple award contracts, the need for future analysis, and the necessary corrective actions such as providing the contracting staff with guidance regarding this issue as well as restructuring of contracts as necessary.

CPOD increased the Office of Water's usage of multiple award, Indefinite Delivery Indefinite Quantity contracts as appropriate to allow for more competition and better pricing under task orders for the office. CPOD continued to emphasize to their program offices the importance of competing the task orders under multiple award contracts. Concentration was placed on the FAR 16.505 and the Fair Opportunity requirements.

Competitive Blanket Purchase Agreements were previously awarded to seven vendors for IT Support Services, known as ITS-EPA-II. To ensure maximum competition for each ITS-EPA II task Order in FY12, Research Triangle Park Procurement Operations Division (RTPPOD) held quarterly Vendor Conferences where new projects were discussed in advance and vendor input was sought. Additionally, as time permitted, draft Performance Work Statements were published on RTPPOD's website so that these seven vendors could review, ask questions and provide comments well in advance of the Task Order Request for Quotation being published.

Headquarter's Procurement Operations Division reported that their National Procurement Service Center increased competition in FY 2012 through the use of its Information Management Center Services (IMCS III) multiple award contracts. Under IMCS III, three (3) awardees compete for the numerous task orders. During FY 2012, 60 tasks orders were competitively awarded. In addition, the seat management Customer Technology Solutions (CTS) contract ended in FY 2012, and will be recompeted into three phases (Procurements). The first phase

(procurement), EZTech (Desktop Services) was competed on a national basis and awarded in July 2012. During FY 2013, the two other phases will be competitively procured.

Region 2 stated, "FY 2012 brought formal competition of task orders under our ERRS multiple award contracts, pursuant to the Fair Opportunity provision under FAR 16.505(b)(1)(ii)(B). While we have always competed non-emergency task orders under our ERRS contracts, we previously utilized in-house resources to evaluate technical expertise and experience; price; location of contractors resources and past performance, for orders under \$5 million. Changes finalized in the FAR in April 2012, now require multiple award contract holders to be provided with a notice of the intent to make a purchase and to be afforded an opportunity to submit an offer and have that offer fairly considered for any task order over \$150,000. We have attempted to make these "Competitions" as streamlined as possible by limiting them to providing information related to estimated per diem charges and past performance contacts for work performed under other Government contracts. These two sub-areas, that we did not consider previously, are used to supplement our in-house evaluations. Contractor feedback has not been positive. Concerns about "proposal" costs eating into slim profit margins have been raised on several occasions. However, we have noted an increased effort by the ERRS contracts to hire "locals", as well as innovative approaches to reducing per diem costs. We will monitor whether the proposed efficiencies resulted in approaches to reducing per diem costs. We will monitor whether the proposed efficiencies resulted in actual savings and will use these results as part of our Quality Assurance Surveillance Plan evaluation related to cost savings efforts. The Quality Assurance Surveillance Plan annual evaluations are tied into the contractor earning an award term, so the incentive for cost savings has a correlation to potentially earn additional work."

Region 5 began competing task orders under existing contracts for major construction projects for the Great Lakes National Program Office. This competitive process has resulted in cost savings to the Region. Previously, these construction projects were issued as non-competitive orders under their A&E contracts.

Region 6 collaborated with the Office of Acquisition Management and regional training officer to provide training to keep purchase cardholders and CORs abreast of rules and regulations pertinent to the acquisition process, including competition requirements.

Region 7 reported that efforts to perform market research and award site specific contracts for remedial actions continue to maximize competition and to expand the vendor base and attain socio-economic goals.

As part of the Balanced Scorecard Initiative for the implementation of the Contract Management Assessment Program which included the implementation of the Performance Measurement and Management Program guide, it:

- 1) Established and implemented internal controls
- 2) Reviewed OAM POD/Regional self assessment surveys
- 3) Conducted peer reviews.

The results from the activities above were and will continue to be analyzed to identify best practices, trends, skill gaps, etc. and shared with the acquisition community to improve the agency's acquisition function.

C. Emphasizing sound contract management and oversight

The EPA ensures that properly trained contracting officer representatives (COR) are designated for contracts before contract performance begins. The requirements to be a COR are listed in the EPA policy guidance. OAM provides regular training and maintains the database of certified CORs, and the Contracting Officers ensure that proposed modifications are within the scope of the contract or order. In accordance with Agency policy, CORs are appointed based on FAC-COTR certification requirements.

TRENDS ON ORDERS OVER \$1 MILLION

There are few trends in competition on orders over \$1 million as a result of the EPA's commitment to competition. The orders that were identified demonstrated that they were conducted with sufficient time to allow for competitive offers to be received and to promote competition. In one instance, the Contracting Officer allowed 8 days for offers and received 2 offers, another Contracting Officer allowed 14 days and received 5 offers, while in another situation the Contracting Officer allowed 21 days for offers and 3 offers were received. It appears that the Contracting Officers are making good judgments on the number of days needed for their particular requirements depending on the level of complexity.

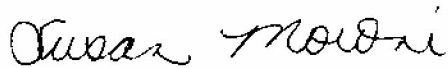
SUMMARY & RECOMMENDATIONS

Thank you again for the opportunity to present this assessment of the EPA's competition achievements and future plans to continue increasing competition on the EPA's procurement opportunities. The EPA will continue to be one of the top agencies leading competition success as we continue our aggressive acquisition planning efforts by implementing creative acquisition processes that expand competition, ensuring there are clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's dynamic real-time Forecast Database. The following actions will be pursued in FY 2013 and beyond to help improve upon strong EPA competitive processes.

1. Issuance of the Annual Call Memo by the end of February each year instead of April as required by the Contract Management Manual. This should encourage all parties to start their acquisition planning efforts earlier as well as to ensure that all agency requirements are posted in the Acquisition Forecast Database before October 1 of each year.
2. The Contract Management Manual will be amended to reflect the proposed change in 1. above.
3. The ACA will plan, organize, and conduct one Contractor Forum each FY (depending on funding) to improve communications with industry and to encourage competition and help build a stronger competition base for future procurements.

4. The ACA will work with PTOD on establishing additional training opportunities on Fedbid.com in FY 2013 to encourage its use as a tool for competition for supplies and lab equipment due to its continued success at increasing competition, small business participation, and government savings if the survey shows that the existing staff is interested.
5. The ACA will work with the OAM Division Directors to ensure quarterly monitoring of the Forecast Database to ensure the data is current, accurate, and complete.
6. The ACA will manage a quality assurance program for competition by doing quarterly reviews to ensure that Contracting Officers are posting JOFOCs and LSJs between \$150,000 and \$650,000 since these actions do not require the ACA's approval.
7. The ACA will work with the Information Technology Service Center, the OAM Division Directors, and the Regional Acquisition Managers, as necessary, on an FPDS ad hoc report regarding sole source actions over \$650K. This should ensure that all sole source actions over \$650K are correctly approved by the ACA by each of the Divisions and Regions.

Report Prepared by:



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U.S. Environmental Protection Agency
Office of Acquisition Management

Competition Advocacy Program

**Protecting Human Health & Safeguarding the Natural Environment
Through Innovative Solutions Realized From Creative and Competitive Contracting
Methodologies**

**Fiscal Year 2011
Agency Competition Advocate (ACA) Report**

EXECUTIVE SUMMARY

The Agency's Competition Advocate (ACA) is pleased to present this "state of competition" assessment of competition practices, achievements and future plans to continue increasing competition on the EPA's procurement opportunities. The EPA is committed to ensuring competition in new, current, and follow-on procurement opportunities as demonstrated by its high rate of competitive actions in Fiscal Year (FY) 2011. In the Federal Procurement Data System-Next Generation (FPDS-NG) report dated 12/7/11, the EPA awarded 90% of all actions competitively in FY 2011. In fact, over the past several years, the EPA has steadily increased the number of actions awarded competitively as a percentage of all actions. Almost 75% of all EPA actions were awarded competitively in FY 2008, 79% in FY 2009, 87% in FY 2010, and now 90% in FY 2011. It should be noted that the EPA was recognized in FY 2008 by the Office of Federal Procurement Policy (OFPP) as having some of the most effective practices for enhancing competition in the Federal Government. The EPA continues to utilize these practices each year to continue to increase competition on new, current, and follow-on procurement opportunities and strives to always look for ways to improve its competitively record.

The EPA's success regarding competition is largely attributable to our aggressive acquisition planning efforts, implementing creative acquisition processes that expand competition, ensuring clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's Forecast Database. A notable accomplishment that resulted from the EPA's competition practices is the increase in the number of competitive contract awards to small businesses. In FY 2007, the EPA awarded more than 41 percent of the EPA's total small business eligible contract dollars to small businesses. In FY 2008, EPA awarded more than 44 percent of the EPA's total small business eligible contract dollars to small businesses, and in FY 2009, the percent exceeded even the EPA's expectations by reaching over 47 percent. (This huge increase can be partially attributed to the additional funding that the agency received under the American Reinvestment and Recovery Act and the fact that much of this funding went to contracts and task orders awarded to small businesses.) The EPA's Agency Goal for FY 2008 – FY 2009 was 39.8%. The EPA earned the highest ranking of twenty-four civilian agencies on its FY 2009 Small Business Administration (SBA) Scorecard. The EPA was presented an award in FY 2010 by SBA for this accomplishment. The EPA awarded 43 percent of the EPA's total small business eligible contract dollars to small businesses during FY 2010 and FY 2011. This included a 7 percent accomplishment in FY 2011

in Service Disabled Veteran-Owned Small Business awards which is over two times that of the EPA's Agency Goal for that small business category. The EPA's Agency Goal for FY 2010 and FY 2011 was 42%. The EPA is very proud to have either met or exceeded five of the six small business goals during FY 2011. The HUB-Zone Small Business category remains the only small business category in which the EPA has historically never met its goal. The EPA consistently achieves approximately 1% in this small business category, while the agency's goal remains 3% which also represents the statutory goal in this category. During FY 2011, I conducted an informal survey of the very few Federal Agencies that achieved 3% or more in this category to see if the EPA could learn from their accomplishments. I concluded that due to our Agency's mission and the lack of qualified HUB-Zone Small Businesses that can perform the type of work that EPA requires, it is my belief that the EPA will continue to struggle and will probably remain unable to meet this small business goal in the future unless the criteria changes under that program.

If you have any questions concerning this report, please contact Susan Moroni, EPA's Agency Competition Advocate, at (202) 564- 4321 or by e-mail at moroni.susan@epa.gov.

INTRODUCTION

The Agency Competition Advocate ensures that increasing competition remains a top priority within the EPA's Office of Acquisition Management, and all of the EPA buying activities in Washington, D.C., Cincinnati, Ohio, Research Triangle Park, North Carolina, nine (9) regional procurement offices, and eleven (11) laboratories around the country. The Agency continues to emphasize competition in the acquisition of its requirements, resulting in impressive savings to taxpayers and increasing the contractor market. Competition is the cornerstone of our acquisition system, and this report will demonstrate how the EPA facilitates efficient and effective competition. This report details the EPA's FY 2011 competition results, the role of the Agency Competition Advocate, and actions underway to strengthen the Competition Advocacy Program at the EPA. In addition, this report contains recommendations for reinforcing the use of competition practices for strengthening the Agency's competitive environment.

SPECIFIC AREAS IN WHICH COMPETITION HAS BEEN ENHANCED

The Agency's Competition Advocate (ACA) has been referred to as the "Gate Keeper" for ensuring competition by the EPA's Office of Inspector General. The ACA meets with the program office and contracting officer when any sole source action requires the review or approval of the Competition Advocate. In this meeting, the ACA asks what steps were taken or options considered prior to determining sole source, including how they will ensure that there are no barriers to future competition. The ACA has had significant success this year in reducing the number of sole source contract actions and/or the value of the actions approved. During FY 2011, the ACA approved 10 Justifications for Other than Full and Open Competition (JOFOCs) and 3 Limited Source Justifications (LSJs). In FY 2010, the ACA approved 13 JOFOCs and 4 LSJs which represented approximately half the number of sole source actions that were approved by her predecessor in previous years. The contracting and program office staff have learned that they must fully justify any sole source actions and prove that they are necessary in order for the ACA to consider approval. During FY 2011, Region 9 requested approval of a JOFOC in the amount of \$40 million to a large business with the justification that only that large business could successfully perform the required work at those sites. The ACA required Region 9's program office to identify each site proposed, the stage in which the site's work was at, if the remaining work was severable, the consequences to the agency and the site if the work did not continue with the large business, and an explanation why the other awarded contractor, who was a small business, couldn't do the work, etc. Through required in depth analysis, it was evident to the program office and contracting staff in Region 9 that the current contractor did not have to continue to perform all of the work originally requested in the JOFOC. The JOFOC was revised and finally approved for approximately \$3 million to cover a very limited number of sites that were at 90% completion or more. The remaining work was then awarded to the other contractor who was a small business with over \$100 million of available capacity in that area of the country. To date, there have been no performance issues under the other contract which was awarded to the small business. As stated above during FY 2011, the ACA approved only ten sole source justifications over \$650,000 and under \$12.5 million. There were no sole source actions over \$12.5 million which needed the approval of the Senior Procurement Executive (SPE) during FY 2011. (Note: Effective October 1, 2010 (FY 2011), the ACA approval thresholds were increased from \$550,000 to \$650,000 and from under \$11.5 million to under \$12.5 million.)

The ACA prepares the “Annual Call Memo” requesting acquisition plans each year that the Director of the Office of Acquisition Management (OAM) and the Director of the Office of Small Business Programs (OSBP) jointly issue. The Annual Call Memo provides clear instructions and examples of the necessary information to help encourage competition. The Annual Call Memo includes a specific deadline for when new requirements are to be submitted to the procurement offices, which many program offices have found helpful in understanding the acquisition process and importance of meaningful acquisition planning. The ACA believes that the agency would be better served if the Annual Call Memo was issued earlier in the Fiscal Year. The ACA recommends the issuance of the Annual Call Memo by the end of February each year instead of April as required by the Contract Management Manual. This will allow for ample time to conduct the acquisition planning meetings between OAM, OSBP, and the program offices, and have the information regarding the upcoming procurements input into the Acquisition Forecast Database by October 1 of each year.

The ACA normally conducts two Contractor Forums per year; however, due to budget uncertainty with the numerous continuing resolutions during FY 2011, the ACA only conducted one Contractor Forum in FY 2011. The EPA Contractor Forums have been noted by many companies as providing excellent information on doing business with the EPA and the Federal Government in general. The Contractor Forums encourage competition by bringing the EPA personnel together with small businesses, large businesses, and organizations interested in contracting with the EPA, and orientates prospective contractors on the goals and objectives of the EPA’s program and staff offices. The Contractor Forum gives contractor’s an avenue in which to talk with the EPA about future opportunities, and for the EPA to provide information on how to do business with the agency. On Tuesday, October 19, 2010, the Fall Contractor Forum was held in Washington, D.C. with over 200 contractors participating. The agenda included presentations from the EPA leadership representing the Office of Administration Resources Management (OARM), the OAM, and the OSBP, an EPA Success Story, an update on the status of the American Reinvestment and Recovery Act, a discussion by the Security Management Division on Fingerprinting and Background Checks for Contractors, a Procurement Policy Update, and a presentation on Green Procurements.

One-on-One Counseling sessions were held in the afternoon for small businesses. This gave the small business community the opportunity to meet with the EPA Program Staff, the EPA Procurement Staff, and the EPA Prime Contractors in an informal setting. These sessions are always very popular and very well attended by the small business community. There were a total of 324 fifteen minute slots available (twenty-seven tables of counselors). The evaluations received from the Contractor Forum were extremely favorable and appreciative to the EPA for holding such an event. The ACA recommends conducting one or two Contractor Forums per fiscal year, budget permitting.

About eight years ago, the previous ACA brought forward the idea to the EPA staff to encourage the use of Fedbid.com (located on the internet at <http://www.fedbid.com>) which is a reverse auction site. Since that time, the use of Fedbid.com has contributed greatly toward increasing competition for various types of products that many program offices thought were only available through some limited sources. In FY 2011, the EPA’s use of Fedbid.com totaled 145 reverse auctions, with an average number of 9 bids per auction, 58% of the awards going to small

businesses, and savings of 8% from the government estimate. In FY 2010, the EPA's use of Fedbid.com totaled 104 reverse auctions, with an average number of 9 bids per auction, 43% of the awards going to small businesses, and savings of 3.6% from the government estimate. In FY 2009, the EPA's use of Fedbid.com totaled 73 reverse auctions, with an average number of 19 bids per auction, 39% of the awards going to small businesses, and savings of almost 3.2% from the government estimate. In my FY 2009 report, I recommended that additional training opportunities on Fedbid.com be provided to the contracting staff to encourage its use as a tool to increase competition. Two sessions were held during FY 2010, one exclusively for Headquarters Procurement Operations Division (HPOD), which is the division that utilizes this tool the most based on the types of products and services they procure, and one in which the ACA worked with the Policy, Training, and Oversight Division (PTOD) to establish as a two hour training/workshop session for all procurement staff. The procurement staff earned two continued learning credits for attending these sessions. The staff from Fedbid.com conducted both training sessions at the EPA's facility located in the Ronald Reagan Building. The ACA would like to recommend that this FedBid.com training be provided again during FY 2012 to further encourage its use as a tool to increase competition, and also to teach new hires about this tool early in their careers.

The ACA monitors the EPA's dynamic real-time Forecast Database, which is on the Internet at <http://www.epa.gov/oam>. The Forecast Database contains detailed information on current and future procurement opportunities, including the contact person, due dates, statements of work, and all other relevant information. The EPA's Forecast Database equips small businesses interested in doing business with the EPA with the information they need to effectively compete for Agency contracts. The Forecast Database has been used as a model by other agencies that are trying to enhance competition and has been recognized by companies interested in doing business with the EPA as an extremely valuable tool. The ACA has promoted aggressive efforts to ensure that the data is current, accurate and complete. The EPA publicizes opportunities up to three years in advance through the use of the Forecast Database on the EPA/OAM internet site. This helps to enhance competition by providing a location for vendors to learn about upcoming requirements well before work on the procurement process begins. The continuous improvements to our Internet site have provided more user-friendly features and access to more information. These improvements continue to result in fewer telephone calls to contract specialists and contracting officers for information which is now easily assessable and readily available on the Internet. The continuous improvements to our web site broaden communication between industry and the Government which facilitates more competition. The ACA recommends quarterly monitoring of the Forecast Database to ensure the data is current, accurate, and complete.

COMPETITION DATA

OFPP established a new Competition Report in FPDS-NG during FY 2011. Although this report derives from the old Competition Report, the significant difference is that the new Competition Report does not record actions as competitive if fair opportunity was not given to the task orders when awarded. Under the old Competition Report, if the original contract was awarded competitively, then all resultant task orders were also considered and recorded as competitive. This change in the two reports lowered the EPA's competition numbers from 90% to 59% during

FY 2011. The Director and Deputy Director of OAM met with OFPP regarding this issue (and other issues) on November 29, 2011 to express the EPA's concern with the way that OFPP has changed the Competition Report. One of the main concerns that the EPA has with the new competition calculation is that it compares two distinctly different approaches. Competition under Part 6 of the FAR and fair opportunity under Part 16 each has different rules and applications that require unique management approaches to continue improvement in these areas. By combining these reports, it does not give agencies the level of detail needed to apply the proper policy and oversight changes required for improvement. In addition, the new calculations bring down the overall competition numbers and will misrepresent competition to Congress, the press, and the general public. Another point of concern is the inclusion of all dollars in the competition calculation for fair opportunity. As with 8(a) sole source contracts on new awards, certain fair opportunity exceptions should also be eliminated from the calculation. Specifically, exceptions C, D, E, and F of FAR 16.505(b)(2). EPA followed up the meeting with a letter that identified these key concerns to OFPP. For purposes of this report, the EPA will continue to use the Old Competition Report as it most accurately reflects the state of competition on the EPA's procurements.

As always, the EPA is committed to ensuring competition in new, current, and follow-on procurement opportunities as demonstrated by its high rate of competitive actions in FY 2011. In FPDS-NG report dated 12/7/11, the EPA was noted as having 90% competitive actions in FY 2011, and the EPA has been recognized in the past by the OFPP as having some of the most effective practices for enhancing competition in the Federal Government.

ROLE OF THE AGENCY COMPETITION ADVOCATE

The EPA has been successful in conducting full and open competition by ensuring that all personnel involved in the procurement process, from identification of the requirement through final payment on the contract, work as a team to maximize competition. The ACA's primary responsibilities are to:

- Develop, direct, and maintain the competition program to ensure that competition initiatives are incorporated and implemented at all levels.
- Promote the use of and challenge barriers to full and open competition in all acquisitions.
- Identify and report opportunities and actions taken to achieve, and any conditions or actions which unnecessarily restrict the use of full and open competition.
- Ensure that oversight mechanisms are established to provide visibility on any issues or obstacles to obtaining competition.
- Ensure the competition is planned early in the acquisition process to minimize factors inhibiting full and open competition.
- Promote market research to identify competition potential in support of acquisition strategies before the procurement decision is irrevocably made.

- Ensure that acquisition plans maximize competition.
- Review and approve sole source actions exceeding \$650,000 and Determinations and Findings for exclusion of certain sources.
- Prepare and submit annual reports describing activities, new initiatives, and recommendations on improving competition.
- Serve as the EPA spokesperson for competition to industry, other Government agencies, and the EPA Program Offices.

ACTIONS THAT LIMIT COMPETITION

The Federal Acquisition Regulation (FAR) provides three distinct methods for limiting competition. First, FAR Subpart 6.3 – Other Than Full and Open Competition, provides the policies and procedures, and identifies the statutory authorities for contracting without providing for full and open competition. Second, FAR Subpart 8.405-6 – Limited Sources Justification and Approval, provides that orders placed under Federal Supply Schedules are exempt from the requirements in Part 6. However, an ordering activity must justify its action when; only one source is capable of responding due to the unique or specialized nature of the work; the new work is a logical follow-on; or when an urgent and compelling need exist. Third, FAR Subpart 13.501 – Special documentation requirements, allows sole source (including brand name) acquisitions for certain commercial items. For the purpose of this report, these three methods for limiting competition will be uniformly referred to as sole-source actions. It is also worthy to note that there are some noncompetitive awards that require no further justification (e.g., awards to an 8(a) firm, public utility, or a source authorized or required by statute) and these actions are not included or addressed in this report.

The sole source actions that are submitted for the approval of the ACA are usually limited to those instances where, for example, the Agency had no other choice but to award on a noncompetitive basis if scientific objectives and Congressional mandates were necessary, when the public health and welfare were at stake, or when time was of the essence to alleviate an immediate danger. The EPA is an agency that is required to protect human health and the environment in the case of a terrorist attack or national emergency, and has issued class justifications to be prepared for these situations. These sole source vehicles are only to be utilized in rare circumstances when competition is not possible due to emergency health and environmental threats. With the availability of a document which can be invoked in a qualifying emergency, the EPA will not need to issue a new document at a point where it may be impossible.

The ACA, with the cooperation of the contracting and program office personnel, will take steps to ensure that there are no noncompetitive awards to continue on-going programs delayed due to poor advance planning and monitoring of current contracts.

The EPA will continue to strive to reduce noncompetitive acquisition situations. Under many of its programs, the EPA has significantly broadened the contractor base and provided opportunities for more companies to compete. The EPA's contracting and program office staff continue to work to increase competition and develop additional sources to satisfy the EPA's requirements. In some instances where an incumbent has repeatedly received follow-on contracts, additional sources have been developed by continuing to break out requirements and allowing the incumbent and the prospective contractors to propose on only a single part of the requirement. By taking these actions, the Agency is developing sources and broadening its contractor base.

ASSESSMENT OF COMPETITION PRACTICES

The Agency continued to enhance competition through the use of innovative procurement techniques. For all procurement opportunities other than small business set-asides, full and open competition was stressed as the most desirable method of acquisition and was pursued aggressively. In assessing the state of competition practices at the EPA for FY 2011, the ACA utilized the format provided by OFPP in its letter dated May 31, 2007. The following details the results of my review based on responses provided from the EPA procurement offices.

A. Ensuring sufficient attention to the manner in which acquisitions are planned

The ACA and the procurement offices have taken numerous actions to ensure that there is sufficient attention being paid to the manner in which acquisitions are planned. It is clear that acquisition planning is one of the best ways to ensure competition. At the EPA, we utilize cross-functional teams in the acquisition planning process, which includes the contracting staff, the program office staff, and the OSBP staff. Detailed acquisition planning meetings are held with each individual customer to go over the next three years acquisition plans to determine strategies to enhance competition, including small business participation. At these planning meetings, the team discusses how competition will be sought and promoted. These planning meetings set forth strategy and identify and help prevent potential future noncompetitive awards. In some instances, all fiscal year requirements are being reviewed at the beginning of the year to develop a total contract strategy for a particular technical program. Acquisition plans for large requirements consider, as appropriate, the comparative benefits of awarding a new contract versus placing an order under an existing contract by reviewing in-house capabilities and capacity on current contracts.

Contracts 2010 is a Superfund program acquisition planning initiative with a shared purpose between OAM, OSBP and the program offices to update the acquisition plans for all contracts awarded to support Superfund programs. As a part of Contracts 2010, the group is looking to improve the Agency's achievement of its small business goal which SRRPOD feels will enhance competition among small businesses.

In addition, Headquarters Procurement Operations Division (HPOD) has developed a new strategic sourcing component to perform structured, methodical spend analysis to its requirements in order to ensure the best approach for the Agency's requirements overall. The EPA employs many market research techniques including publishing formal requests for information, querying government and commercial databases, counseling contractors on doing

business with the EPA, holding pre-proposal conferences, and participating in events (such as outreach, matchmaking, etc.) with industry, other acquisition officials, and the program offices. Pre-proposal conferences provide an opportunity for potential offerors to familiarize themselves with the Government's requirement, encourage participation in the procurement, and provide a networking opportunity to establish subcontracting, mentoring, and/or teaming arrangements. During FY 2011, Region 9 conducted a pre-proposal conference via the internet which led to many additional participants at the conference and enhanced competition on the requirement. This practice will be explored further in FY 2012 as a Balanced Scorecard Initiative for OAM. The contracting staff agency-wide utilizes sources sought synopses to determine appropriate contract types and ensure maximum consideration of small businesses. Acquisitions are posted in the EPA's Forecast Database and on our main website to maximize competition. Upon issuance of a new solicitation, the contracting officers routinely send e-mail notifications to sources identified by the program office and sources responding to the synopsis to ensure maximum response from contractors.

There are plans in place to provide maximum practicable opportunities for small businesses in both prime contracting and subcontracting. During FY 2011, the EPA awarded 43 percent of the EPA's total small business eligible contract dollars to small businesses, meeting five of the six small business goals. More than \$154 million was awarded to SDVOSB in FY 2011 which equated to over 7 percent of the EPA's total small business eligible contract dollars, up from almost \$99 million to SDVOSB in FY 2010, which equated to 5 percent of the EPA's total small business eligible contract dollars. The EPA's Agency Goal for SDVOSB is 3%. The EPA did not meet its goal for HUBZone Small Businesses and continues to struggle in this small business category due to the Agency's mission/requirements as well as the limited number of HUBZone Small Businesses that are qualified under the solicited NAICS Codes. In Region 1, their commitment to increase the usage of small businesses has resulted in a Region 1 Small Business Accomplishment change from 6.45% in FY 2004 to 64.7% (draft) in FY 2011, despite an extreme staffing shortage in that region. All of the region's major Superfund contracting mechanisms awarded in the past five years have provided enhanced opportunities for small businesses, notably in prime contracting. In Region 2, thirteen of the fourteen current contracts or long term task orders under GSA contracts that were placed in Region 2 have been awarded to small businesses (the fourteenth was awarded to an Ability One sheltered workshop). For the three current large business contracts in Region 2, the prime contractors are monitored regularly and encouraged to maximize performance in meeting and exceeding each of the goals under their subcontracting plans. To this end, the Contracts Management Section forwards a list of Region 2's prime contractors to small businesses inquiring about how to do business with the EPA, as well as providing this list to participants in small business matchmaking forums. In Region 9, six large procurements were conducted by the Contracting Office in FY 2011. Of the six new requirements, two were small business set-asides, one was targeted under the GSA 8(a) STARS program, two were 8(a) competitive set-asides, and one was full and open competition. All of these awards are scheduled for FY 2012. The numerous EPA Regions, via their small business specialists, as well as Research Triangle Park Procurement Operations Division (RTPPOD) and CPOD, the only two divisions within OAM that have small business specialists, continue to hold small business vendor outreach events as well as conduct training for the small business community to increase competition and the use of small businesses on their procurements.

In accordance with the FY 2011 White House Initiative regarding increasing outreach to small businesses, the EPA participated in and sponsored two large, nationwide small business events in which the EPA Administrator or the EPA Deputy Administrator attended and provided a keynote speech. The first event included a teaming arrangement by the EPA with the Department of Energy to co-sponsor their huge annual event called "U.S. DOE 2011 Power Generation for Small Business Conference and Expo" in May 2011. This was an exceptional opportunity for a number of agencies with similar missions and contractors in common to team together on this outreach event. There were approximately 1,600 participants. The second event was "Marketplace – Procurement Opportunities for Small Businesses" held in Research Triangle Park, NC in June 2011. Research Triangle Park Procurement Operations Division has a long history of active participation in this event which has been referred to as one of the most successful and best organized events of its type. Marketplace is held bi-annually in conjunction with the North Carolina Congressional Representatives of North Carolina's 2nd and 4th Districts. Marketplace is a full day of multiple events, which included various seminars and a trade show with 52 exhibitors. Typically, there are at least 500 participants.

In late 2009, OAM and OSBP committed to team together to establish a small business training program for the contracting and program office staff to improve their knowledge of the Small Business Contracting Programs. This teaming reflects OAM's and OSBP's strong desire to educate and encourage the use of the different small business contracting programs regarding EPA procurements, as appropriate. This training was given for the first time at the Acquisition Conference in March 2011 and then again in August 2011 at EPA Headquarters. The ACA also arranged to have the Small Business Administration conduct a Women-Owned Small Business Training Session in August 2011, immediately preceding the OSBP/OAM Training. Both training sessions were televised nationwide via Tanberg, videotaped, and are now available on the OAM intranet site for future learning opportunities and as a refresher for both contracting and program office staff. The ACA recommends that these training sessions remain on the OAM intranet to improve the contracting and program office staff's knowledge of the Federal Small Business Contracting Programs. During FY 2011, OAM also teamed with OSBP to develop and publish a guide on the Federal Small Business Contracting Programs. This guide should serve as a handy guide for practical use by the OAM staff. The ACA recommends that the guide on Federal Small Business Contracting Programs be posted and maintained on the OAM intranet for the Contracting Staff's future use and reference. Both of these actions were Balanced Scorecard Initiatives during FY 2011.

Another area in which the EPA contracting staff need additional training and emphasis in is on the electronic Subcontracting Reporting System (eSRS) to ensure that they are reviewing individual subcontract reports in the system and in a timely manner. During FY 2011, the Policy, Training, and Oversight Division completed a massive effort to require contracting officers to approve or disapprove all Individual Subcontracting Reports (ISRs) in the system. There were over 600 reports outstanding, some dating as far back as 2005, that have now been finalized. As a result of this effort, the EPA's eSRS actions are now current. The ACA recommends continued monitoring of the electronic Subcontracting Reporting System (eSRS) to determine the barriers on approving or rejecting the ISRs to ensure the contracting officers are providing the maximum practicable opportunities for small businesses in subcontracting. In addition, regular discussion

with the OSBP should include the status of “accept/reject” of Summary Subcontract Reports, as OSBP is the approving office for those reports.

Each major acquisition involving a number of separate tasks is reviewed to determine the acquisition method best suited to enhance competition. This includes examining each task and determining whether to separate or combine them, depending on which method is most likely to generate the most competition. The EPA did not process any actions that met the definition of contract bundling during FY 2011.

Cincinnati Procurement Operations Division (CPOD) went to great lengths to increase communication between the program office and the market in hopes of generating greater interest and increasing competition. Specifically, CPOD leveraged the guidance in the EPA Vendor Communication Plan and the OMB Myth-Busting memo to OTAQ’s Powertrain requirement (recompete of EPC07069).

OAM has recognized the need for emphasis to be placed on the issue of multiple award contracts in the future. OAM plans to develop a performance measure to track orders under multiple award contracts that would include self assessment on an annual basis. This would include identifying the agency’s data regarding multiple award contracts, the need for future analysis, and the necessary corrective actions such as providing the contracting staff with guidance regarding this issue as well as restructuring of contracts as necessary.

B. Using competition in an effective manner

The EPA is proud of its efforts to ensure clear statements of work that provide sufficient information, so the companies may make informed business decisions on whether to respond and perform the due diligence necessary to propose the best solutions. When appropriate, the EPA also publishes proposed requirements for public comment prior to issuance of a solicitation. The program offices have been instructed that their statements of work should be structured in the performance based format. Most often the performance measures focus strongly on the aspects of quality, responsiveness, timeliness, and cost. Additionally, quality assurance surveillance plans are put in place to monitor performance. Competition is enhanced through the use of performance-based contracting, as it requires clear and measurable contract performance standards in terms of quality, quantity, and timeliness.

The EPA considers the complexity, commerciality, availability, and urgency in establishing due dates for proposals. All buying offices work to allow the maximum number of days for proposals to increase competition and encourage contractors to provide quality proposals that would allow for a best value award based on initial offers. It is the intent of the EPA to award based on initial offers as stated in solicitations issued by the agency.

During the evaluation process, the EPA takes into account recent and relevant past performance, including quality, timeliness, and cost control. The EPA relied on the Navy’s Contractor Performance Assessment Reporting System and the Past Performance Information Retrieval System (PPIRS) to obtain past performance information on vendors during FY 2011. The EPA annually holds “stand down” days to remind Contracting Officer’s to input and update the

information on their existing contracts in the system so that current and relevant information is available for upcoming procurement opportunities.

There were three (3) awards made by the Emergency Response Service Center (ERSC) in FY 2011. They were for a Mobile Laboratory; Airborne Spectral Photo-Imaging of Environmental Contaminants (ASPECT) Plane and Airborne Spectral Photo-Imaging of Environmental Contaminants, Infra-red Line Scanner. All procurement utilized Sources Sought and RFI notices to enhance competition. In addition, SRRPOD (as well as HPOD) staff members participated as presenters and one-on-one counselors in EPA outreach efforts such as the Office of Small Business Programs' (OSBP) sponsored vendor forums and counseling sessions and the OAM sponsored Contractor Forums, to provide information to small business vendors regarding upcoming procurements, and promote the divisions' procurements. In addition, SRRPOD staff participated in industry's annual conventions such as the Brownfields Conference in April 2011, talking with vendors in break-out sessions and providing information at exhibit halls on their Office of Brownfields and Land Revitalization contracts. SRRPOD also worked with Program Offices to move toward competitive multiple award task order contracts instead of single awards under the Office of Resource Conservation and Recovery (ORCR) Mission Support contracts.

Statements of Work were reviewed for clarity and undue restrictions, with particular emphasis on larger procurements, to determine if breakout services could be provided by small businesses. A change in NAICS code of one acquisition resulted in increased competition, and the use of an 8(a) set aside procurement strategy resulted in an increase in the number of awards that were made by SRRPOD.

The Program Management and Regional Coordination Service Center (PMRCSC) in SRRPOD enhanced competition on its small business Region 1 Regional Oversight Contract (ROC) with an estimated value of \$6.2M, by changing the NAICS Code from 562910- Environmental Remediation Services, used historically for the ROC Program, to 541620- Environmental Consulting Services, which resulted in an increased number of offerors.

On its Region 2 Remedial Action Contract (RAC), with an estimated value of \$18M, the use of an 8(a) set aside procurement strategy resulted in an increase in both the number of offers received and contracts awarded compared to the previous cadre of Region 2 RAC contracts. The awards increased from 2 large contracts to 2 large and 2 small contracts.

The Information Resource Management Procurement Service Center (IRMPSC) of Headquarters Procurement Operations Division (HPOD) enhanced competition in FY 2011 by continuing to leverage the Software Engineering Specialized Scientific Support (SES3) multiple award Blanket Purchase Agreements (BPA) placed last year. To date, IRMPSC has placed forty-seven task orders across multiple agency offices on the SES3 BPAs. Six of these orders were placed in FY 2011.

C. Emphasizing sound contract management and oversight

The EPA ensures that properly trained contracting officer representatives (COR) are designated for contracts before contract performance begins. The requirements to be a COR are listed in the

EPA policy guidance. OAM provides regular training and maintains the database of certified CORs, and the Contracting Officers ensure that proposed modifications are within the scope of the contract or order. In accordance with Agency policy, CORs are appointed based on FAC-COTR certification requirements.

TRENDS ON ORDERS OVER \$1 MILLION

There are few trends in competition on orders over \$1 million as a result of the EPA's commitment to competition. The orders that were identified demonstrated that they were conducted with sufficient time to allow for competitive offers to be received and to promote competition. In one instance, the Contracting Officer allowed 8 days for offers and received 2 offers, another Contracting Officer allowed 14 days and received 5 offers, while in another situation the Contracting Officer allowed 21 days for offers and 3 offers were received. It appears that the Contracting Officers are making good judgments on the number of days needed for their particular requirements depending on the level of complexity.

SUMMARY & RECOMMENDATIONS

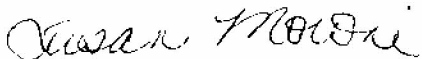
Thank you again for the opportunity to present this assessment of the EPA's competition achievements and future plans to continue increasing competition on the EPA's procurement opportunities. I believe that the EPA will continue to be one of the top agencies leading competition success as we will continue our aggressive acquisition planning efforts by implementing creative acquisition processes that expand competition, ensuring there are clear and complete statements of work, and providing access to all necessary procurement information on-line in real-time through the EPA's dynamic real-time Forecast Database. I propose the following recommendations to help keep the EPA's competition practices strong.

1. The ACA recommends the issuance of the Annual Call Memo by the end of February each year instead of April as required by the Contract Management Manual. This should encourage all parties to start their acquisition planning efforts earlier as well as to assure that all agency requirements are posted in the Forecast Database before October 1, 2012.
2. The ACA will plan, organize, and conduct one or two Contractor Forums each FY (depending on funding) to improve communications with industry and to encourage competition and help build a stronger competition base for future procurements.
3. The ACA will work with PTOD on establishing additional training opportunities on Fedbid.com to encourage its use as a tool for competition for supplies and lab equipment due to its continued success at increasing competition, small business participation, and government savings.
4. The ACA will work with the OAM Division Directors to ensure quarterly monitoring of the Forecast Database to ensure the data is current, accurate, and complete.
5. The ACA will ensure that the OAM intranet contains OSBP's small business training to improve knowledge of the Federal Small Business Contracting Programs, and will

strongly encourage the different programs' use on EPA procurements as appropriate to increase competition.

6. The ACA will ensure that the guide on Federal Small Business Contracting Programs is posted and maintained on the OAM intranet for the contracting staff's use and reference.
7. The ACA will work with PTOD and the OAM Division Directors on monitoring of the electronic Subcontracting Reporting System (eSRS) to determine the barriers on approving or rejecting the Individual Subcontract Reports to ensure the contracting officers are providing the maximum practicable opportunities for small businesses in subcontracting. In addition, regular discussions with the OSBP should include the status of "accept/reject" of Summary Subcontract Reports, as OSBP is the approving office for those reports.
8. The ACA will manage a quality program for competition by doing quarterly checks to ensure that Contracting Officers are posting JOFOCs and LSJs between \$150,000 and \$650,000 since these actions do not required the ACA's approval. The ACA will also work with the Information Technology Service Center and the OAM Division Directors and Regional Acquisition Managers as necessary on an FPDS ad hoc report regarding sole source actions over \$650K to ensure that all sole source actions over \$650K are correctly approved by the ACA during FY 2012 by each of the Divisions and Regions.

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